

# GLASGOW AIRPORT RAIL LINK ACT 2007

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 2 – Land

#### Compensation

#### *Section 23 – Power to enter land for survey, etc.*

119. The Lands Clauses Acts do not allow adequately for the carrying out of survey and similar work before acquiring land. Surveys and the other activities described in subsection (1) are a necessary part of the detailed design and preparatory work that is required in advance of starting construction. It is impracticable for survey work to await completion of formal purchase procedures, which can include Lands Tribunal hearings. This is recognised in section 83 of the 1845 Lands Act which allows entry before purchase for survey and a limited number of other purposes (drilling and soil samples). **Section 23** of the Act extends these purposes to include what is necessary for a modern construction project. It is a standard provision in modern legislation of this sort<sup>1</sup>.
120. Subsection (1) enables the authorised undertaker to enter any land within the limits of deviation or the limits of land to be acquired or used for the purposes of carrying out surveys and investigations (including archaeological investigations) and to protect or remove flora or fauna.
121. Subsection (2) requires the authorised undertaker to give, on the first occasion seven, and thereafter three, days' notice to the owner and occupier.
122. Subsection (3) requires a person entering under these powers to produce written evidence of authority, and authorises such a person to enter with vehicles and equipment. The subsection does not specify the form of written authority required, but this might take the form of a letter of authority from the authorised undertaker.
123. By subsection (4) no trial holes may be made in a carriageway or footway without the consent of the road works authority.
124. Subsection (6) requires the authorised undertaker to pay compensation for damage caused to owners and occupiers.

---

<sup>1</sup> See e.g. *The Stirling-Alloa- Kincardine Railway and Linked Improvements Act 2004, section 23, British Railways (No. 2) Order Confirmation Act 1994 (c.ii), s.21, City of Edinburgh (Guided Busways) Order Confirmation Act 1998 (c.iii), ss. 12 and 13.*