

# GLASGOW AIRPORT RAIL LINK ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 2 – Land

#### Compensation

##### *Section 25 – Persons under disability may grant servitudes, etc.*

131. **Section 25** applies to persons such as trustees who are only able to convey the land because they are empowered to do so by the 1845 Lands Act. People who are legally disabled from doing something (in this case selling land) are described as being under a disability.

Section 7 of the 1845 Lands Act enables such people to convey existing rights, but not to create new rights. Provision is accordingly required to ensure that it will always be possible for the authorised undertaker to acquire new rights under **section 14** of the Act.

132. Subsection (1) accordingly allows persons under a disability to grant to the authorised undertaker servitudes, rights or privileges<sup>1</sup> over their land. If they remained unable to do this such people in this position could only sell the whole of the land. The authorised undertaker could be left with land it did not need and an increased compensation liability.
133. By subsection (2), rights cannot be granted in relation to water in which others have an interest. Where several landowners have interests in the same water, the law treats them as sharing a common interest: one of them cannot therefore do something that affects the others. Subsection (2) is needed to prevent **section 25** being used to override these general property rights.

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<sup>1</sup> “Privileges”: rights that are of benefit to the person entitled to exercise them, for example fishing rights.