

# GLASGOW AIRPORT RAIL LINK ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 2 – Land

#### Compensation

#### *Section 16 – Temporary use of land for construction of works*

81. Where the authorised undertaker only needs to occupy land for a temporary period, purchase of the land cannot be justified (see [paragraph 52](#) above). [Section 16](#) allows for the authorised undertaker to take temporary possession of specified land for the period required for specific authorised works. Provision of this sort is standard in legislation authorising works.
82. By subsection (1) the authorised undertaker may take temporary possession of the land specified in columns (1), (2) and (3) of [schedule 6](#) for the various purposes mentioned in column (4) of that schedule. (These are purposes such as the provision of construction compounds, working spaces and access.) On exercising these powers the authorised undertaker may remove buildings and vegetation and construct temporary works (including means of access) and temporary buildings on the land and carry out as necessary permanent works to mitigate the effects of the authorised works.
83. Subsection (2) requires the authorised undertaker to serve 28 days' prior notice of entry on the owners and occupiers of the land.
84. Subsection (3) provides that, except with the landowner's agreement, the authorised undertaker may not remain in temporary possession for more than one year after the date of completion of the works for the purposes of which entry was made. The relevant work is specified, in relation to each plot, in column (5) of [schedule 6](#). The authorised undertaker is allowed to remain in possession for this further year so that it can do all the work required during the 12 month maintenance period immediately after construction has been completed. It is normal in construction contracts for contractors to be liable to maintain works for a given period (usually 12 months) after the works have been completed. This makes the contractor responsible to rectify any defects that come to light while the works are 'bedding in'.
85. Subsection (4) provides that before giving up possession the authorised undertaker must remove temporary buildings and restore the land to the reasonable satisfaction of its owners. The authorised undertaker is not required to replace buildings that have been removed on the basis that the character of the land has fundamentally changed as the result of its temporary use<sup>1</sup>.

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<sup>1</sup> This is standard in provisions of this sort – see e.g. *City of Edinburgh (Guided Busways) Order Confirmation Act 1998 (c.iii), s.8(4)(b)*. It reflects the legal rule that where land that has been compulsorily acquired outright for a particular authorised purpose is no longer needed for that purpose and is to be sold, the original owner has no right to be given first refusal if the character of the land has fundamentally changed as the result of its use for the authorised purpose.

*These notes relate to the Glasgow Airport Rail Link Act 2007  
(asp 1) which received Royal Assent on 15 January 2007*

86. Subsection (5) requires the authorised undertaker to pay the owners and occupiers of land of which temporary possession has been taken compensation for any loss they suffer as the result of the temporary possession.
87. By subsection (6) the amount of any compensation is to be determined in case of dispute under the [Land Compensation \(Scotland\) Act 1963 \(c.51\)](#). The compensation payable under [section 16](#) is in respect of loss or damage arising from the temporary possession. The same landowner might be entitled to compensation in respect of the same land arising from the construction of the authorised works. Accordingly, subsection (7) provides that any compensation payable under this section is additional to any other compensation that may be payable in respect of the land. Compensation will continue to be payable under any other enactment except in so far as this duplicates compensation payable under [section 16](#).
88. Subsection (8) provides that the authorised undertaker is not required to acquire the land which is used temporarily under this section, or any interest in it.