

GLASGOW AIRPORT RAIL LINK ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Miscellaneous and general

Section 33 – Powers of disposal, agreements for operation, etc.

158. **Section 33** is required because, although SPT is the promoter of the Act, it will not necessarily own or operate the railway. For instance the expectation is that ownership of the alterations to the existing rail network will be transferred to Network Rail as the national rail infrastructure operator. **Section 33** therefore gives effect to the intention that SPT may be no more than the procurer of the powers. In the absence of **section 33** the powers in the Act would not be transferable.
159. Subsection (1) provides that the authorised undertaker is competent to (i.e. lawfully can) make and implement agreements connected with the authorised works that provide for the things described in subsection (2). The matters listed in subsection (2) are:
- the transfer to and vesting in another person of all or any of the authorised undertaker's functions under the Act, including the powers conferred by this section,
 - the disposal of the whole or any part of the railway undertaking that the authorised works make up, and
 - the creation of any heritable security, charge or other encumbrance secured on that statutory undertaking.
- The authorised undertaker does not need powers to transfer or dispose of non-statutory assets, but the matters described in subsection (2) all relate to interference with the statutory powers of the Act and so require legislation to authorise them.
160. Subsection (3) relates to any restrictions, liabilities or obligations that bind the authorised undertaker, either under this Act or under an undertaking or commitment (given before or after the Act passes) by SPT or any other authorised undertaker. Any such thing will be equally binding on any subsequent authorised undertaker.
161. Subsection (4) requires that where there is an agreement under subsection (1) to transfer functions, the authorised undertaker making the transfer must serve a notice on the Scottish Ministers stating the name and address of the transferee and the date when the transfer is to take effect. The notice must be served within 21 days after such an agreement has been completed. The purpose is to ensure that the Scottish Ministers have a record of who is entitled to exercise statutory functions and, reflecting the importance of the notice requirement, subsection (5) makes it a criminal offence to fail without reasonable excuse to comply with the requirement.
162. Subsection (6) makes clear that an agreement under subsection (1) made in connection with the authorised works can include any agreement relating to funding, construction,

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

maintenance and operation of the authorised works or any supplementary or ancillary matters

163. Subsection (7) contains definitions. “Functions” includes powers, duties and obligations: in short, in relation to the statutory functions under the Act, anything arising under the Act.