

GLASGOW AIRPORT RAIL LINK ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Miscellaneous and general

Section 37 – Listed buildings

174. **Section 37** introduces **schedule 8**. The schedule makes special provisions as to the listed building (Glasgow Central Station) which will be affected by the railway works.
175. As explained in **paragraph 8** above, the Act will grant planning permission for the authorised works. It is appropriate that all planning issues should be considered at the same time, but the way in which the legislation is framed means that, but for **section 37** and **schedule 8**, the authorised undertaker would have to obtain listed building consent separately from the Act. This section and schedule 8 accordingly disapply this separate statutory requirement so that the Act will, effectively, also grant these consents.
176. **Paragraph 1** of **schedule 8** refers to the **Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c.9)** (in the schedule called “the Listed Buildings Act”). This is the Act that requires special consent (called listed building consent) for works and operations affecting buildings that are listed under the Act as being of special architectural or historic importance and conservation area consent for the demolition or alteration of the external appearance of buildings in areas that are listed under the Act as being of special architectural or historic importance.
177. **Paragraph 1(1)** of the schedule specifies the provisions in the Listed Buildings Act and the actions that may be taken under the Act which are not to apply. They are—
- section 6 (the requirement for listed building consent);
 - any notice under section 34(1) (in the Listed Buildings Act called an enforcement notice) by which the local planning authority may require actions in relation to any of the buildings specified in the table which would render ineffective, or substantially ineffective, the works authorised by the Act;
 - in relation to an enforcement notice to which paragraph 1(1)(b) above applies, the power under section 38(1) of the Listed Buildings Act for the local planning authority to do the things required by an enforcement notice if the recipient of the notice fails to comply; and
 - the ability under section 49 for the local planning authority to carry out urgent preservation works if those works would render ineffective, or substantially ineffective, the works authorised by the Act.
178. The purpose of disapplying these statutory controls in relation to the building specified in the table is only to allow the construction of the authorised works. Accordingly, **paragraph 1(2)** of **schedule 8** makes clear that the only works that are not affected by the controls mentioned in **paragraph 1(1)** are the works described in column (4) of the table at the end of **paragraph 1**.

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

179. The purpose of **schedule 8** is to give listed building consent in all cases where it is needed. The building mentioned in the table is the only building that was listed as at 1st September 2004. Paragraph 1(3) ensures that if any further buildings are listed the schedule will apply to them, as well.
180. Paragraph 1(4) of **schedule 8** makes clear that objects or structures fixed to or within the curtilage of a building (for example, lamp brackets or door furniture) are to be treated as a part of the building for the purpose of this schedule¹.
181. The listed buildings and the works to which the schedule will apply are described in the table at the end of paragraph 1.

These Notes relate to the Glasgow Airport Rail Link Act (asp [no]) which received Royal Assent on [date]

182. **Paragraph 2** of **schedule 8** disapplies section 53 of the Listed Buildings Act in relation to the works authorised by Part 1 of the Act. Section 53(1) of the Listed Buildings Act makes it a criminal offence to do or permit anything which causes or is likely to result in damage to a listed building. The works described in the table would amount to damage giving rise to an offence. Section 53(3) provides that subsection (1) does not apply (which means that the offence is not committed) to the execution of works authorised by a planning permission or for which listed building consent has been given. As the Act amounts to an effective grant of planning permission, and the effect of **section 37** of and **schedule 8** to the Act is effectively to grant listed building consent for the specified works, section 53 ought not to apply to the works.
183. **Paragraph 3** of the schedule applies the definitions of “building”² and “listed building”³ in the Listed Buildings Act.
184. In the absence of this section it would be necessary to obtain separate listed building consent and conservation area consent in respect of works affecting the specific listed buildings or certain works in the conservation areas in which they are situated. This section enables the principle of the listed building issues to be dealt with at the same time as the rest of the scheme. However the details of any modifications to listed buildings will require prior approval by the local planning authority in accordance with the conditions attaching to the permitted development rights which apply to development authorised by the Act (see **paragraph 8** for an explanation of these permitted development rights).

¹ *The Listed Buildings Act provides that these things are deemed to be part of a listed building, but only for the purposes of that Act (Listed Buildings Act, s.1(4)).*

² *“Building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building (Town and Country Planning (Scotland) Act 1997 (c.8), s.277(1), applied by Listed Buildings Act s.81).*

³ *“Listed building”:* A building which is for the time being included in a list compiled by the Secretary of State under section 1 of the Listed Buildings Act (Listed Buildings Act, ss.1 and 81).