

GLASGOW AIRPORT RAIL LINK ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Supplementary

Section 47 – Incorporation of enactments

207. As explained in paragraphs 15 to 18, the legal machinery for compulsory acquisition is in Acts that only apply if they are specifically incorporated. **Section 47** accordingly incorporates the relevant legislation.

Section 48 – Application of original railway enactments

208. The purpose of this section is to discharge BRB (Residuary) Limited from any statutory liabilities that remain with them relating to a former railway in respect of land acquired by the authorised undertaker. A former railway for the purpose of this section is a railway which did not pass to Railtrack PLC (now known as Network Rail Infrastructure Limited) with the operational railway infrastructure of the British Railways Board on the privatisation of the national rail network. The British Railways Board was left on privatisation with land held in connection with abandoned railways and any historic statutory liabilities which attached to those railways and BRB (Residuary) Limited has inherited that land and those liabilities. On acquisition of the land by the authorised undertaker these statutory liabilities will be superseded by the statutory liabilities applying to the new railway works but since they are statutory liabilities BRB(Residuary) Limited will remain bound by them unless the Act contains express statutory authority for it to be discharged. That is what this section achieves.

Section 49 – Disapplication of statutory and other restrictions on acquisition and use of certain land

209. Section 63 of the Paisley Improvement Act 1877 required the local Council to lay out the land of the former race-course as a public park for all time. The land to which this section refers is St James' Park. Some of the land will be permanently acquired for a viaduct to carry the new railway across the park and rights for access for maintenance will be required. During construction of the railway an area of the park will be occupied or used as a worksite. **Section 49** therefore disapplies section 63 of the 1877 Act in respect of the land which is permanently acquired for the railway, and the land which is temporarily occupied or used for maintenance during the time when it is so used.
210. This land is land which is held by local Council for the common good. Under section 75 of the **Local Government (Scotland) Act 1975 (c.65)** if there is any question as to the right of a local authority to dispose of such land the authority may apply to the Court of Session to authorise the disposal. For the avoidance of doubt and in order to remove any need for a subsequent reference to the sheriff of the Court to authorise its acquisition, **Section 49** also makes clear that any restriction arising from the status of the land as land held for the common good is not to prevent the authorised undertaker acquiring the land or rights over it.

Section 50 – Rights of Crown and Scottish Ministers

211. The purpose of this section is to ensure that the powers of the Act cannot be used against land of the Crown or Scottish Ministers without their consent. The land to which this section relates includes the M8 motorway, over which the railway will pass on a new bridge and the bed of the river Clyde over which the works will be constructed on an existing bridge. Similar provisions are normally included in private legislation whenever Crown land is proposed to be affected.

Section 52 – Short title

212. **Section 52** does not make any special provision for the commencement of the Act once passed. It will come into force the day after the Act receives Royal Assent.