



Glasgow Airport Rail Link Act 2007

2007 asp 1

PART 2

LAND

Supplementary

21 Acquisition of part of certain properties

- (1) This section shall apply instead of section 90 of the 1845 Lands Act in any case where—
 - (a) a notice to treat is served on a person (“the owner”) under that Act (as incorporated with this Act by section 47) in respect of part only—
 - (i) of a house, building or factory; or
 - (ii) of land consisting of a house with a park or garden, (“the land subject to the notice to treat”); and
 - (b) a copy of this section is served on the owner with the notice to treat.
- (2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the authorised undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).
- (3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.
- (4) If such a counter-notice is served within that period and the authorised undertaker agrees to take the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice.
- (5) If such a counter-notice is served within that period and the authorised undertaker does not agree to take the land subject to the counter-notice the question as to what land the owner shall be required to sell shall be referred to the tribunal.
- (6) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

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- (a) without material detriment to the remainder of the land subject to the counter-notice; or
 - (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity or convenience of the house,
- the owner shall be required to sell the land subject to the notice to treat.
- (7) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—
- (a) without material detriment to the remainder of the land subject to the counter-notice; or
 - (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity or convenience of the house,
- the notice to treat shall be deemed to be a notice to treat for that part.
- (8) If on such a reference the tribunal determines that—
- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
 - (b) the material detriment is confined to a part of the land subject to the counter-notice,
- the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice.
- (9) If the tribunal determines that—
- (a) none of the land subject to the notice to treat can be taken without—
 - (i) material detriment to the remainder of the land subject to the counter-notice; or
 - (ii) in the case of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity or convenience of the house; and
 - (b) that the material detriment is not confined to a part of the land subject to the counter-notice,
- the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice.
- (10) A notice to treat shall have the effect which it is deemed to have under subsection (4), (8) or (9) whether or not the additional land is land which the authorised undertaker is authorised to acquire compulsorily under this Act.
- (11) In any case where by virtue of a determination by the tribunal under this section a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the authorised undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat.
- (12) If the authorised undertaker withdraws the notice to treat in accordance with subsection (11) it shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

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- (13) Where the owner is required under this section to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the authorised undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

22 Extinction or suspension of rights of way

- (1) Subject to subsections (5) and (6), all private rights of way over land subject to compulsory acquisition under this Act shall be extinguished—
- (a) as from the acquisition of the land by the authorised undertaker, whether compulsorily or by agreement; or
 - (b) on the entry on the land by the authorised undertaker under section 24, whichever is sooner.
- (2) Subject to subsections (5) and (6), all private rights of way over land of which the authorised undertaker takes temporary possession under this Act shall be suspended and unenforceable for as long as the authorised undertaker remains in lawful possession of the land.
- (3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this section shall be entitled to compensation.
- (4) Any dispute as to a person's entitlement to compensation under subsection (3), or as to the amount of the compensation, shall be determined under the 1963 Act.
- (5) This section does not apply in relation to any right of way to which section 224 or 225 of the 1997 Act (extinguishment of rights of statutory undertakers etc.) applies.
- (6) Subsections (1) and (2) shall have effect subject to—
- (a) any agreement made (whether before or after this Act comes into force) between the authorised undertaker and the person entitled to the private right of way;
 - (b) any determination made by the authorised undertaker limiting the application of subsection (1) or (2) to the extent specified in the determination.
- (7) A determination relating to subsection (1) must be made before the date on which the right in question would have been extinguished.
- (8) A determination relating to subsection (2) may be made at any time before or after temporary possession of any land is taken.
- (9) Notice of determination under this section must be given to the person entitled to the right of way to which it relates as soon as practicable after the making of the determination.
- (10) Subsection (1) does not apply to any of the land specified in columns (1), (2) and (3) of Part 2 of schedule 5 to this Act (land outside the limits of deviation in which rights are to be acquired).

23 Power to enter land for survey, etc.

- (1) The authorised undertaker may, in relation to any land within the limits of deviation or the limits of land to be acquired or used, for the purposes of this Act—
- (a) survey or investigate the land;

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- (b) without prejudice to the generality of paragraph (a), make trial holes in such positions as the authorised undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove water and soil samples;
 - (c) without prejudice to the generality of paragraph (a), carry out archaeological investigations on the land;
 - (d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the works;
 - (e) place on, leave on and remove from the land apparatus for use in connection with the exercise of any power conferred by paragraphs (a) to (d); and
 - (f) enter the land for the purpose of exercising any power conferred by paragraphs (a) to (e).
- (2) No land may be entered, or equipment placed or left on or removed from land, under subsection (1), unless—
- (a) on the first occasion at least seven days'; and
 - (b) on subsequent occasions not less than three days',
- notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this section on behalf of the authorised undertaker—
- (a) shall, if so required, before or after entering the land produce written evidence of authority to do so; and
 - (b) may enter with such vehicles and equipment as are necessary for the purpose of exercising any of the powers conferred by subsection (1).
- (4) No trial hole shall be made under this section in a carriageway or footway without the consent of the road works authority, but such consent shall not be unreasonably withheld.
- (5) Any question as to whether approval has been unreasonably withheld under subsection (4) shall, unless the parties otherwise agree, be determined by arbitration.
- (6) The authorised undertaker shall pay compensation for any damage occasioned, by the exercise of the powers conferred by this subsection, to the owners and occupiers of the land.
- (7) Any dispute as to a person's entitlement to compensation under subsection (6), or as to the amount of the compensation, shall be determined under the 1963 Act.

24 Further powers of entry

- (1) At any time after notice to treat has been served in respect of any land which may be purchased or over which servitudes or other rights may be purchased compulsorily under this Act the authorised undertaker may enter on and take possession of or use the land.
- (2) No land may be entered under subsection (1) unless at least 3 months' notice has been given to the owner and occupier of the land specifying the land, or part of the land, of which possession is to be taken or which is to be used.
- (3) The authorised undertaker may exercise the powers conferred by this section without complying with sections 83 to 89 of the 1845 Lands Act before such exercise.

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- (4) Compensation for the land of which possession is taken under this section, and interest on the compensation awarded, shall be payable as if sections 83 to 89 of the 1845 Lands Act had been complied with.
- (5) Nothing in this section affects the operation of section 48 of the Land Compensation (Scotland) Act 1973 (c. 56).

25 Persons under disability may grant servitudes, etc.

- (1) Persons empowered by the Lands Clauses Acts to sell and convey or dispose of land may grant to the authorised undertaker a servitude, right or privilege required for any of the purposes of this Act in, over or affecting any such land.
- (2) A person may not under this section grant a servitude, right or privilege of water in which persons other than the grantor have an interest.

26 Period for compulsory acquisition of land

- (1) The authority given by sections 12 and 14 for the compulsory acquisition of land and new rights for the purposes of this Act shall cease five years from the date on which this Act comes into force.
- (2) The powers conferred by sections 12, 13 and 14 for the compulsory acquisition of such land and servitudes or other rights shall, for the purposes of this section, be deemed to have been exercised in relation to any land, servitude or right if before the expiry of five years from the date on which this Act comes into force—
 - (a) notice to treat has been served; or
 - (b) a declaration has been executed under paragraph 1 of Schedule 15 to the 1997 Act in respect of that land, servitude or right.

27 Extension of time

- (1) On the application of the authorised undertaker, the Scottish Ministers may, by order, extend, or further extend, the period referred to in subsection (1) of section 26 above provided that—
 - (a) such application is made prior to the expiry of the period or any extension to it; and
 - (b) the period referred to in that subsection, taken together with any extension to it, shall not exceed ten years in total.
- (2) If the Scottish Ministers extend, or further extend, the period referred to in subsection (1) of section 26 above, subsection (2) of that section shall have effect as if, for the period referred to in it, there were substituted the extended, or further extended, period.
- (3) The power of the Scottish Ministers to make orders under subsection (1) above shall be exercisable by statutory instrument.
- (4) A statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of the Parliament.

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28 Time limit on validity of notice to treat

Section 78 of the Planning and Compensation Act 1991 (c. 34) shall apply in relation to a notice to treat served under section 17 of the 1845 Lands Act as incorporated with this Act.

29 Parliamentary plans and book of reference: adjustments agreed with landowners and correction of errors

(1) Where—

- (a) the authorised undertaker has entered into a binding obligation (“the obligation”) not to acquire any land within the limits of deviation or the limits of land to be acquired or used; and
- (b) either the authorised undertaker or the owner desires to reflect that commitment by way of either amendment of, or addendum to, either or both the Parliamentary plans and the book of reference,

the authorised undertaker or the owner of the land may (after giving the notice required by subsection (3)) apply summarily to the sheriff under this section.

(2) If the Parliamentary plans or the book of reference are inaccurate in—

- (a) their description of any land; or
- (b) their statement or description of the ownership or occupation of any land,

the authorised undertaker may (after giving the notice required by subsection (3)) apply summarily to the sheriff for the correction of such inaccuracy.

(3) The notice required by subsections (1) and (2) is 10 days' prior notice—

- (a) in the case of a notice by the authorised undertaker, to the owner, lessee and occupier of the land in question; and
- (b) in the case of a notice by an owner, to the authorised undertaker and to any lessee or occupier of the land in question.

(4) Any person to whom a notice has been given under subsection (1) or (2) may, within the period of 10 days from the giving of the notice, give to the sheriff and the person who gave the notice a counter-notice in writing that the person disputes—

- (a) in the case of an application under subsection (1), that the proposed amendment or addendum accurately reflects the obligation; and
- (b) in the case of an application under subsection (2), that there is an inaccuracy which may be amended under this section.

(5) In relation to any application under this section if it appears to the sheriff—

- (a) that the proposed amendment or addendum accurately reflects the obligation; or
- (b) that the inaccuracy arose from mistake,

as the case may be, the sheriff shall certify the fact accordingly.

(6) A certificate relating to an application under subsection (2) shall state in what respect any matter is misstated or wrongly described.

(7) If any counter-notice is given pursuant to subsection (4), the sheriff shall, before making any decision on the application cause a hearing to be held.

(8) The certificate shall be deposited in the office of the Clerk of the Parliament.

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- (9) On the making of the deposit required by subsection (8)—
 - (a) the Parliamentary plans and the book of reference shall be deemed to be corrected or amended according to the certificate; and
 - (b) it shall be lawful for the authorised undertaker to take the land or, as the case may be, a right over the land in accordance with the certificate.
- (10) The Clerk of the Parliament shall keep every certificate deposited under this section with the Parliamentary plans or book of reference to which it relates.
- (11) An application under subsection (1) or (2) may only be made in respect of land identified in the book of reference or on the Parliamentary plans.
- (12) In this section “the sheriff” means the sheriff principal of, or any sheriff appointed for, the sheriffdom in which the land or any part of it is located.

30 Restrictions on compulsory purchase in respect of operational airport land

- (1) In respect of the land shown on the Parliamentary plans numbered 1 to 70b, 71, 72 to 72b, 72d, 73a and 73b in the local government area of Renfrewshire the powers conferred by sections 12 to 16 of this Act shall be subject to such requirements as Glasgow Airport Limited may reasonably make to ensure that there is no material adverse impact on the operation or safety of its airport undertaking.
- (2) Any difference arising under this section between the authorised undertaker and Glasgow Airport Limited shall, unless the parties otherwise agree, be determined by arbitration.
- (3) The authorised undertaker shall not take possession of any or all of the land referred to in subsection (1) or commence any part of the authorised works on that land until agreement is reached or a determination is made in accordance with this section.
- (4) Notwithstanding the terms of section 67(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) the authorised undertaker may (in respect of the land referred to in subsection (1)), require a lease of that land to be granted in its favour for a period of no more than 250 years.
- (5) In this section Glasgow Airport Limited means Glasgow Airport Limited, a company incorporated under the Companies Acts in Scotland (company no. 096624), or any successor to that company as operator of Glasgow Airport.

31 Protection of access at St James' Park

- (1) Immediately upon the authorised undertaker completing title to all or any part of plots 76 and 83, it shall grant the servitude right and register it in the Land Register of Scotland or the General Register of Sasines.
- (2) Such grant shall be made under declaration that the servitude right shall be capable of being exercised by the proprietors or proprietor for the time being of plots 75 and 78 at any time during which there are football pitches or a football pitch available for use on either or both of those plots.
- (3) The servitude right shall be subject to such restrictions as the authorised undertaker may reasonably impose for the protection of the authorised works or their operation, including—

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- (a) the right to obstruct access across plots 76 and 83 temporarily for the purpose of maintaining the authorised works, and
 - (b) restrictions on the nature of vehicles permitted to pass under the authorised works.
- (4) In the event of any such restrictions being imposed so as to obstruct access over plots 76 or 83, the authorised undertaker shall, if necessary to maintain continued vehicular and pedestrian access to and from and between plots 75 and 78, provide a suitable alternative right of pedestrian and vehicular access and egress to and from and between plots 76 and 83.
- (5) The exercise of any of the powers conferred by this Act in relation to the access road shall be subject to continued rights of pedestrian and vehicular access being available to and from plots 75 and 78 to the proprietors or proprietor for the time being of plots 75 and 78 at any time during which there are football pitches or a football pitch available for use on either or both of those plots.
- (6) In this section—
- “the access road” means the access road comprised within plots 78a, 82, 82b, 83 and 84;
 - “the servitude right” means a servitude right of pedestrian and vehicular access over plots 76 and 83 in favour of the proprietor or proprietors for the time being of plots 75 and 78; and
- any reference to a numbered plot is a reference to all or any part of the land shown identified by that number on sheets 3 or 4 of the Parliamentary plans.

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