



Edinburgh Airport Rail Link Act 2007

2007 asp 16

PART 2

LAND

Powers of acquisition

17 Power to acquire land

- (1) The authorised undertaker is authorised to acquire compulsorily—
 - (a) such of the land shown on the Parliamentary plans within the limits of deviation for the authorised works as—
 - (i) is described in the book of reference; and
 - (ii) is required by the authorised undertaker for the purposes of the authorised works; and
 - (b) such of the land so shown within the limits of land to be acquired or used and so described as—
 - (i) is specified in columns (1), (2) and (3) of Part 1 of schedule 5 to this Act; and
 - (ii) may be required for the purposes specified in relation to that land in column (4) of that Part.
- (2) Notwithstanding subsection (1), the authorised undertaker does not have power to acquire compulsorily the land in the City of Edinburgh shown numbered 349 and 352 on the Parliamentary plans.

18 Acquisition of subsoil or rights

- (1) In exercise of the powers conferred by section 17 the authorised undertaker may, as regards any land authorised to be acquired under that section, compulsorily acquire—
 - (a) so much of the subsoil of the land; or
 - (b) such servitudes or other rights over the land,as may be required for any purpose for which the land may be acquired under that section.

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- (2) Servitudes and other rights may be acquired under subsection (1) by creating them as well as by acquiring servitudes and other rights already in existence.
- (3) Section 90 of the 1845 Lands Act and paragraph 20 of Schedule 15 to the 1997 Act (which provide in certain circumstances for the owner of the land to require the purchase of the whole rather than part of that property) shall not apply to any compulsory acquisition under this section or under section 19.
- (4) Subject to subsections (5) and (6), the Lands Clauses Acts, as incorporated with this Act, shall have effect with the modifications necessary to make them apply to the compulsory acquisition of new rights under this section or under section 19 as they apply to the compulsory acquisition of land.
- (5) As so having effect, references in those Acts to land shall be treated as, or as including, references to new rights or to the land over which new rights are to be exercisable.
- (6) Section 61 of the 1845 Lands Act (estimation of purchase money and compensation) shall apply to the compulsory acquisition of a right under this section or section 19 as if for the words from “value” to “undertaking” there were substituted the words “extent (if any) to which the value of the land in or over which the right is to be acquired is depreciated by the acquisition of the right”.

19 Purchase of specific new rights over land

- (1) The authorised undertaker may acquire compulsorily in or over any of the land shown on the Parliamentary plans within any limits of land to be acquired or used and specified in columns (1), (2) and (3) of Part 2 of schedule 5 to this Act, such servitudes or other new rights as it requires for the purposes mentioned in column (4) of that Part.
- (2) The powers conferred by this section are additional to the powers conferred by section 18.

20 Rights in roads or public places

- (1) The authorised undertaker may—
 - (a) enter upon and appropriate so much of the subsoil of, or air-space over, any road or public place that is authorised to be compulsorily acquired under section 16 as may be required for the purposes of the authorised works; and
 - (b) may use the subsoil or air-space for those purposes or any other purpose connected with or ancillary to its railway undertaking.
- (2) Subject to subsection (3), the powers conferred by subsection (1) may be exercised in relation to a road or public place without the authorised undertaker being required to acquire any part of the road or place or any servitude or other right in relation to it.
- (3) Subsection (2) shall not apply in relation to—
 - (a) any subway or underground building; or
 - (b) any cellar, vault, arch or other construction in or on a road which forms part of a building fronting onto the road or public place.
- (4) The authorised undertaker shall not be required to pay compensation for the exercise of the powers conferred by subsection (1) to the roads authority in respect of a public road or to the authority in which any public place is vested.

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- (5) Any person other than a roads authority who—
- (a) is an owner or occupier of land in respect of which the power conferred by subsection (1) is exercised without the authorised undertaker acquiring any part of that person's interest in the land; and
 - (b) suffers loss by reason of the exercise of that power,
- shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.

[^{F1}(6) The powers conferred by this section constitute a real right.]

Textual Amendments

F1 S. 20(6) substituted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 5 paras. 53\(3\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); [S.S.I. 2014/127](#), art. 2

21 Temporary use of land for construction of works

- (1) The authorised undertaker may, in connection with the carrying out of the authorised works—
- (a) enter upon and take temporary possession of any of the land specified in columns (1), (2) and (3) of schedule 6 to this Act for the purpose specified in relation to that land in column (4) of that schedule relating to the authorised works specified in column (5) of that schedule;
 - (b) remove any apparatus, buildings or vegetation from that land; and
 - (c) construct on the land temporary works (including the provision of apparatus or means of access) and buildings.
- (2) Not less than 28 days before entering upon and taking temporary possession of land under this section the authorised undertaker shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) The authorised undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this section after the end of the period of one year beginning with the date of completion of the work specified in relation to that land in column (5) of schedule 6 to this Act.
- (4) Before giving up possession of land of which temporary possession has been taken under this section, the authorised undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the authorised undertaker shall not be required to replace a building removed under this section.
- (5) The authorised undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this section for any loss or damage arising from the exercise in relation to the land of the powers conferred by this section.
- (6) Any dispute as to a person's entitlement to compensation under subsection (5), or as to the amount of the compensation, shall be determined under the 1963 Act.
- (7) Without prejudice to section 25, nothing in this section shall affect any liability to pay compensation under section 6 or 36 of the 1845 Act or under any other enactment in

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respect of loss or damage which arises from the execution of any works but which is not loss or damage for which compensation is payable under subsection (5).

- (8) The powers of compulsory acquisition of land conferred by this Act shall not apply in relation to any land of which temporary possession has been taken under subsection (1), except that the authorised undertaker shall not be precluded from acquiring—
- (a) interests in subsoil;
 - (b) new rights; or
 - (c) land within the limits of land to be acquired or used for any purpose specified in schedule 5 to this Act.
- (9) Where the authorised undertaker takes possession of land under this section, it shall not be required to acquire the land or any interest in it.
- (10) In this section “building” includes any structure or erection.

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