

Edinburgh Airport Rail Link Act 2007

2007 asp 16

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Edinburgh Airport Rail Link Act 2007

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The Bill for this Act of the Scottish Parliament was passed by the Parliament on 14th March 2007 and received Royal Assent on 19th April 2007

An Act of the Scottish Parliament to authorise the construction of new railways to link Edinburgh Airport to the national rail network; to make provision concerning planning agreements and developer contributions relating to the railway; and for connected purposes.

PART 1

WORKS, ETC.

Works

1 Power to construct works

The authorised undertaker may construct the authorised works, namely—

(a) the scheduled works referred to in section 2 ("the scheduled works");

(b) the ancillary works referred to in section 3 ("the ancillary works"); and

(c) any work authorised by section 11, 15 or 16.

2 The scheduled works

(1) The scheduled works are the works situated within the lateral limits of deviation shown on the Parliamentary plans, at the levels shown on the Parliamentary sections and specifically described in schedule 1 to this Act.

(2) The extent of the scheduled works for which authority is given by section 1 is subject to section 4 (which permits deviation within limits from the lines and levels shown on the Parliamentary plans and sections).

3 The ancillary works

(1) The ancillary works are such works of the nature described in schedule 2 to this Act as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the scheduled works.

(2) Subject to subsection (3), section 1 only authorises the carrying out or maintenance of ancillary works—

(a) within the limits of deviation; and

(b) on land specified in columns (1), (2) and (3) of schedule 5 for the purpose specified in relation to that land in column (4) of that schedule (being land shown on the Parliamentary plans as lying within the limits of land to be acquired or used).

(3) The authorised undertaker may construct and maintain ancillary works identified in paragraphs 10 and 11 of schedule 2 to this Act anywhere within the Act limits.

4 Permitted deviation within limits

(1) Subject to subsection (2), in constructing or maintaining the scheduled works the authorised undertaker may—

(a) deviate laterally from the lines or situations shown on the Parliamentary plans within the limits of deviation for that work shown on those plans; and

(b) deviate vertically from the levels shown on the Parliamentary sections—

(i) in the case of Works Nos. 1 and 1A, upwards by a maximum of 7 metres;

(ii) in the case of any part of Work No. 2, 3A, 3B, 4, 4A, 5 or 6 which, at the date on which this Act comes into force, is on operational land of Edinburgh Airport, upwards by a maximum of 1 metre;

(iii) in the case of any part of Work No. 2, 3A, 3B or 5 which, at the date on which this Act comes into force, is on safeguarded airport land, upwards by a maximum of 1 metre or, with the agreement of EAL (which agreement shall not be unreasonably withheld), by a maximum of 3 metres from such levels;

(iv) in any other case, upwards by a maximum of 3 metres; and

(v) to any extent downwards.

(2) Subsections (1)(b)(ii), (iii) and (iv) do not apply to the ventilation shafts forming part of Works Nos. 2, 3A, 3B and 4.

(3) In this section "safeguarded airport land" means any land within the limits of deviation, the limits of land to be acquired or used or the limits of safeguarding which is within the land to the north of Edinburgh Airport (as existing at the date on which this Act comes into force) which is shown indicatively on the map of Edinburgh Airport included in paragraph 5.12 of the White Paper 'The Future of Air Transport' (December 2003, Cmd. 6046) and forms part of the land so shown within the possible new airport boundary.

5 Work No. 4: station and southern tunnel portal

(1) The design, construction and location within the parameters described in schedule 1 to this Act of—

(a) the station; and

(b) the southern portal of the tunnel,

forming part of Work No. 4 shall be subject to agreement between the authorised undertaker and EAL.

(2) Any dispute as to whether EAL or the authorised undertaker ought reasonably to accept any term proposed by the other of them for inclusion in an agreement under subsection

(1) shall, unless the parties otherwise agree, be determined by arbitration; and in determining any dispute the arbiter shall have regard to the respective needs of EAL and the authorised undertaker for the future safe, effective and efficient operation of their respective undertakings.

(3) Subject to section 36, and unless otherwise agreed with EAL, the authorised undertaker shall not take possession of any land for the purpose of constructing any work to which subsection (1) relates or commence any part of such a work until agreement is reached or a determination is made in accordance with the requirements of this section.

6 Access to works

(1) The authorised undertaker may, for or in connection with the authorised works, form and lay out means of access, or improve existing means of access, to or from any public road—

(a) at the points shown on the Parliamentary plans; or

(b) in such location or locations within the Act limits as may be approved by the roads authority.

(2) Approval of the roads authority under subsection (1)(b) shall not be unreasonably withheld or delayed and any question whether an approval has been unreasonably withheld or delayed shall, unless the parties otherwise agree, be determined by arbitration.

7 Construction and maintenance of new or altered roads

(1) Each of Works Nos. 2C, 2J, 2K, 4H, 4J, 4M, 4P, 5B, 5C, 5E to 5H, 5J, 5K, 5P and 5R and so much of Work No. 4T as is situated in plots nos. 421b, 422a and 413b shall, unless otherwise agreed, be completed to the reasonable satisfaction of the roads authority.

(2) Following such completion the work shall, unless otherwise agreed between the authorised undertaker and the roads authority, be maintained by and at the expense of the authorised undertaker for a period of 12 months from its completion.

(3) Subject to subsection (7), at the expiry of the period during which the authorised undertaker is liable to maintain any work under subsection (2), the work and its associated land shall by virtue of this section vest in the roads authority.

(4) The authorised undertaker shall give the roads authority notice in writing with a certificate that any authorised work to which subsection (3) applies is complete.

(5) The roads authority may, within 21 days after such service, give the authorised undertaker a counter-notice in writing that the notice is disputed on the ground that the road is not complete.

(6) Any dispute as to the completion of a road shall be determined by arbitration, and the determination of the arbiter (or other person to whom the dispute is referred) shall be final and binding.

(7) Any road or associated land which is the subject of a notice under subsection (4) shall vest—

(a) 28 days after the service of the notice;

(b) on the date of a determination under subsection (6) that the road is complete;

(c) on the date on which the authorised undertaker complies with any conditions for completion that are specified in the determination; or

(d) on the expiry of the period specified in subsection (3),

whichever is the latest.

(8) A certificate issued by or on behalf of the authorised undertaker as to the date on which the authorised undertaker complied with any conditions of the sort referred to in subsection (7)(c) together, if so requested by the roads authority, with a report from a consultant to be agreed between the authorised undertaker and the roads authority confirming such compliance, shall for the purposes of this section be conclusive evidence of such compliance.

(9) Nothing in this section shall prejudice the operation of section 146 of the 1991 Act (which enables the local roads authority to declare that a road shall become a public road); and the authorised undertaker shall not by reason of any duty under this section to maintain a road be taken to be the roads authority in relation to that road for the purposes of Part IV of that Act.

(10) Nothing in this section shall have effect in relation to road works as respects which the provisions of Part IV of the 1991 Act apply.

8 Vesting of private roads and private accesses

(1) Unless otherwise agreed between the authorised undertaker and the intended owner, each of—

(a) the private roads comprising Works Nos. 1B, 2D and 4L; and

(b) the private accesses comprising Works Nos. 2E, 5A, 6A, 6B and 6D, so much of Work No. 4T as is situated in plot no. 422b and so much of Castle Gogar Drive as is situated in plots nos. 705 and 711b,

shall, following its completion as certified or determined under this section, be maintained by and at the expense of the authorised undertaker for a period of 12 months from such completion.

(2) Subject to subsection (7), at the expiry of the period during which the authorised undertaker is liable under subsection (1) to maintain any private road or private access, the road or access and its associated land shall, if they are vested in the authorised undertaker, by virtue of this section vest in the intended owner.

(3) Any vesting effected by subsection (2) shall be subject to such rights specified by the authorised undertaker as may be requisite to reflect public or private rights in any road or access for which the private road or private access is a substitute.

(4) The authorised undertaker shall give every intended owner notice in writing specifying—

(a) the private road, private access or associated land that is to be vested;

(b) details of any other person in whom that road, access or land is to be vested; and

(c) details of any rights to which the road, access or land is to be subject and of every person who has or will have such rights,

together with a certificate that the road or access is complete.

(5) A person on whom a notice is served under subsection (4) may, within 21 days after such service, give the authorised undertaker a counter-notice in writing that the notice is disputed on the grounds that—

(a) the person on whom the notice has been served is not such a person as is described in subsection (9);

(b) the road or access is not complete; or

(c) any rights specified under subsection (4)(c) are not such as described in that subsection.

(6) Any dispute as to whether a person is such a person as is described in subsection (9), as to the completion of a private road or private access or as to whether rights specified in a notice are such as described in subsection (4)(c) shall be determined by arbitration, and the determination of the arbiter (or other person to whom the dispute is referred) shall be final and binding.

(7) Any private road, private access or associated land which is the subject of a notice under subsection (4) shall vest—

(a) 28 days after the service of the notice;

(b) on the date of a determination under subsection (6) that the person on whom the notice has been served is such a person as is described in subsection (9) and that the road or access is complete;

(c) on the date on which the authorised undertaker complies with any conditions for completion that are specified in the determination; or

(d) on the expiry of the period specified in subsection (2),

whichever is the latest.

(8) A certificate issued by or on behalf of the authorised undertaker as to the date on which the authorised undertaker complied with any conditions of the sort referred to in subsection (7)(c) together, if so requested by the intended owner, with supporting consultants' reports, shall for the purposes of this section be conclusive evidence of such compliance.

(9) In this section "intended owner" means a person or persons identified by the authorised undertaker to become the owner of a private road or private access constructed under this Act as being—

(a) the owner of the private road or private access for which the private road or private access being vested is a substitute; or

(b) the owner of land that is served by the private road or private access.

9 Registration of vested land

(1) The Keeper of the Registers of Scotland may, without prejudice to section 4 of the Land Registration (Scotland) Act 1979 (c.33), register any land vested under section 7 or 8 on receiving the material specified in subsection (2).

(2) The material referred to in subsection (1) is—

(a) particulars of the land vested under section 7 or 8 sufficient to enable the Keeper to identify it by reference to the Ordnance Map;

(b) particulars of the person or persons in whom the land is vested;

(c) an application for registration made by or on behalf of the authorised undertaker or the person in whom the land is vested;

(d) details of any rights to which the vesting is subject;

(e) such proof as the Keeper may require that the events giving rise to the vesting have happened; and

(f) such other documents and evidence as the Keeper may require in order to satisfy himself that the vesting should be registered.

10 Permanent stopping up of roads

(1) Subject to the provisions of this section, the authorised undertaker may, in connection with the construction of the authorised works, stop up each of the roads specified in columns (1) and (2) of Part 1 of schedule 3 to this Act to the extent specified (by reference to the letters and numbers shown on the Parliamentary plans) in column (3) of that Part.

(2) No part of a road specified in Part 1 of schedule 3 to this Act in relation to which a substitute road is specified in column (4) of that Part shall be stopped up under this section until either—

(a) the substitute has been completed to the reasonable satisfaction of the roads authority and is open for public use; or

(b) a temporary alternative route between the commencement and termination points of the road to be stopped up is first provided and thereafter maintained by the authorised undertaker to the reasonable satisfaction of the roads authority until completion of the new road in accordance with paragraph (a).

(3) Where any part of a road has been stopped up under this section—

(a) all rights of way over or along the stopped up part of the road shall be extinguished; and

(b) the authorised undertaker may, without making any payment, appropriate and use for the purposes of the authorised works so much of the site of the road as is bounded on both sides by land within the limits of deviation of the authorised works.

(4) Any person who suffers loss by the extinguishment of any private right of way under this section shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.

(5) Any dispute under subsection (2) as to the completion of a substitute road or the provision or maintenance of an alternative route shall, unless the parties otherwise agree, be determined by arbitration.

(6) This section is subject to paragraph 2 of schedule 7 to this Act.

11 Power to execute road works

(1) The authorised undertaker may, for the purposes of exercising the powers conferred by this Act to construct any scheduled work having a junction with a road, enter upon any road and execute any works required for or incidental to the exercise of those powers.

(2) In exercise of the powers of subsection (1) the authorised undertaker may break up or open the road, or any sewer, drain or tunnel under it, may tunnel or bore under or open the road and may remove and use the soil or other materials in or under the road.

(3) In this section "road" includes any road within Edinburgh Airport.

12 Works to be major works for roads purposes

(1) Works to which subsection (2) applies shall be treated for the purposes of Part IV of the 1991 Act as major works for roads purposes if—

(a) they are of a description mentioned in any of paragraphs (a) to (d), (f) and (g) of section 145(3) of that Act (which defines what roads authority works are major works for roads purposes); or

(b) they are works which, had they been executed under the powers of the roads authority, might have been carried out in exercise of the powers conferred by section 27 (dual carriageways, roundabouts and refuges) or 63 (new access over verges and footways) of the Roads (Scotland) Act 1984 (c.54).

(2) Subject to subsection (3), this subsection applies to any of the works mentioned in section 7(1), or any scheduled work having a junction with a road, in either case where the construction of the work involves the execution of road works in relation to a road which consists of or includes a carriageway.

(3) Subsection (2) does not apply to any work executed under power delegated to a roads authority by an agreement under section 13.

(4) In Part IV of the 1991 Act, references, in relation to major works for roads purposes, to the roads authority concerned shall, in relation to the works which are major works for roads purposes by virtue of subsection (1), be construed as references to the authorised undertaker.

13 Agreements with roads authorities, etc.

(1) Where under this Act the authorised undertaker is authorised to stop up or interfere with an existing road or part of an existing road, it may enter into agreements with the persons having the charge, management or control of the road concerning the construction (or contribution towards the expense of the construction) of—

(a) any new road to be provided in substitution;

(b) any alteration of the existing road; and

(c) any other related matters.

(2) The authorised undertaker may, by agreement with any such persons, delegate to them the power of constructing any such new road or any such alteration of an existing road, including any bridge over any railway, and, where the authorised undertaker is responsible for maintaining the new or altered road or bridge, the power to maintain it.

Supplemental powers

14 Temporary stopping up, alteration or diversion of roads

(1) During and for the purposes of the execution of the authorised works the authorised undertaker may temporarily stop up, alter or divert any road and may for any reasonable time—

(a) divert the traffic from the road; and

(b) subject to subsection (3), prevent all persons from passing along the road.

(2) Without prejudice to the generality of subsection (1), the authorised undertaker may exercise the powers of this section in relation to each of the roads specified in columns (1) and (2) of Part 2 of schedule 3 to this Act to the extent specified (by reference to the letters and numbers shown on the relevant Parliamentary plans) in column (3) of that Part.

(3) Without prejudice to the generality of subsection (1), the authorised undertaker may use any road stopped up under the powers of this section as a temporary working site.

(4) The authorised undertaker shall provide reasonable access for pedestrians going to or from premises abutting on a road affected by the exercise of the powers conferred by this section if there would otherwise be no such access.

(5) The authorised undertaker shall not exercise the powers conferred by this section—

(a) in relation to any road specified as mentioned in subsection (2), without first consulting the road works authority; and

(b) in relation to any other road, without the consent of the road works authority.

(6) Consent under subsection (5)(b) shall not be unreasonably withheld or delayed but may be given subject to such reasonable conditions as the road works authority may impose.

(7) Any question whether—

(a) consent under subsection (5)(b) has been unreasonably withheld or delayed; or

(b) a condition imposed under subsection (6) is unreasonable,

shall, unless the parties otherwise agree, be determined by arbitration.

15 Discharge of water

(1) The authorised undertaker may use any available watercourse or any public sewer or drain for the drainage of water, and for that purpose may—

(a) lay down, take up and alter pipes; or

(b) make openings into, and connections with the watercourse, public sewer or drain,

on any land within the Act limits or the limits of safeguarding.

(2) The authorised undertaker shall not discharge any water into any artificial watercourse, or any public sewer or drain, except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as the person may reasonably impose but shall not be unreasonably withheld or delayed.

(3) The authorised undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld or delayed.

(4) The authorised undertaker shall take such steps as are reasonably practicable to secure that any water discharged under the powers conferred by this section is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(5) Any difference under this section arising between the authorised undertaker and the owner of an artificial watercourse or a public sewer or drain shall, unless the parties otherwise agree, be determined by arbitration.

(6) Nothing in this section shall affect the operation of Part IV of the 1991 Act or the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (SSI 2005/348).

(7) In this section—

"public sewer or drain" means a sewer or drain which belongs to Scottish Water, a private provider who has made an agreement with Scottish Water under section 1(2)(b) of the Sewerage (Scotland) Act 1968 (c.47) (duty of local authority to provide sewerage for their area) or a roads authority; and

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

16 Safeguarding works to buildings

(1) Subject to the provisions of this section the authorised undertaker may at its own expense and from time to time carry out such safeguarding works to any building situated on land within—

(a) the Act limits; or

(b) the limits of safeguarding and specified in Part 1 of schedule 4 to this Act,

as the authorised undertaker considers to be necessary or expedient.

(2) The powers conferred by subsection (1) may also be exercised in relation to the boundary wall within the curtilage of Carlowrie House, and comprising part of that house for the purpose of its category A listing.

(3) The powers conferred by this section shall be exercised subject to and in accordance with Part 2 of schedule 4 to this Act.

(4) In this section and that schedule—

(a) "building" includes any structure or erection (including a road, runway, taxiway or area any of which has a metalled surface) or any part of a building, structure or erection;

(b) "category A listing" means the entry in the list of buildings maintained by the Scottish Ministers under section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c.9) relating to Carlowrie House and dated 30th January 1981;

(c) any reference to a building within a specified distance of a work includes—

(i) in the case of a work under the surface of the ground, a reference to any building within the specified distance of the point on the surface below which the work is situated; and

(ii) where a work has not commenced, a reference to a building within the specified distance of the proposed site of the work; and

(d) "safeguarding works", in relation to a building, means—

(i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works; and

(ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

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.

(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.

(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.

(6) For the purposes of section 28 of the Land Registration (Scotland) Act 1979 (c.33), the powers conferred by this section shall constitute a real right and shall be an overriding interest.

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 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.

Compensation

22 Disregard of certain interests and improvements

(1) In assessing any compensation payable on the acquisition from any person of any land under this Act, the tribunal shall not take into account—

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In subsection (1) "relevant land" means—

(a) the land acquired from the person concerned; or

(b) any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

23 Set-off of betterment against compensation

(1) In determining the amount of compensation or purchase money payable to any person in respect of an interest in land acquired under this Act in a case where—

(a) the person has an interest in any other land contiguous with or adjacent to the land so acquired; and

(b) the value of the person's interest in any such contiguous or adjacent land is enhanced by reason of the works authorised by this Act or any of them,

the amount of the enhancement in value shall be set off against the compensation or purchase money.

(2) For the purposes of this section any reduction in expenditure that would have been required in order to comply with an obligation under any enactment with respect to any land is to be treated as an enhancement in the value of an interest in the land.

24 Application of legislation relating to certificates of appropriate alternative development

Section 30(2)(a) of the 1963 Act (which defines the circumstances in which an interest in land is to be taken as an interest to be acquired by an authority possessing compulsory purchase powers) shall have effect in relation to any compulsory purchase authorised by this Act as if for the words "either House of Parliament relating to petitions for private bills" there were substituted the words "the Scottish Parliament".

25 No double recovery

Compensation shall not be payable in respect of the same matter both under this Act and under any other enactment, any contract or any rule of law.

Supplementary

26 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 58) 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—

(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—

(i) without 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 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 six 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.

(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.

27 Extinction or suspension of private 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 29,

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 section 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 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.) or paragraph 2 of schedule 7 to this Act 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) This section 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).

28 Power to enter land for survey, etc.

(1) The authorised undertaker may, in relation to any land within the Act limits or the limits of safeguarding, for the purposes of this Act—

(a) survey or investigate the land;

(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 authorised 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 on 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 consent 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 compensation, shall be determined under the 1963 Act.

29 Further powers of entry

(1) At any time after notice to treat has been served in respect of any land which may be purchased compulsorily, 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 28 days' 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.

(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).

30 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.

31 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.

(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 is located.

32 Period for compulsory acquisition of land

(1) The powers conferred by sections 17 and 19 for the compulsory acquisition of land and new rights shall cease after five years beginning on the date on which this Act comes into force.

(2) The powers conferred by sections 17, 18, and 19 for the compulsory acquisition of such land and servitudes or other rights shall, for the purpose of this section, be deemed to have been exercised in relation to any land, servitude or right if before the expiry of five years beginning on 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.

33 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 32 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 32, 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.

34 Time limit on validity of notices 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.

35 General vesting declarations

(1) Section 195 of, and Schedule 15 to, the 1997 Act shall apply to the compulsory acquisition of land under this Act as if this Act were a compulsory purchase order so as to enable the authorised undertaker to vest by general vesting declaration any land authorised to be compulsorily acquired under this Act.

(2) The notice required by paragraph 2 of that Schedule (as so applied) shall be a notice—

(a) that this Act has received Royal Assent;

(b) containing the particulars specified in sub-paragraph (1) of that paragraph;

(c) published and served in accordance with the requirements of paragraph 6 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42); and

(d) given at any time after this Act comes into force.

36 Restrictions regarding operational airport land

(1) In respect of the land referred to in subsection (2), the powers conferred by this Act for the compulsory acquisition of land or rights in land, or for taking temporary possession of land compulsorily, shall be subject to such requirements as EAL may reasonably make to ensure that there is no material adverse impact on the operation or safety of its airport undertaking.

(2) The land mentioned in subsection (1) is the land, forming part of Edinburgh Airport, shown on the Parliamentary plans numbered 250, 251, 254 to 263, 263a, 267, 271, 273, 275, 275a, 277 to 279, 279a, 280 to 282, 282a, 284 to 289, 289a, 290, 291, 291a, 291b, 292, 292a, 292b, 292c, 293, 295 to 298, 300, 300a, 300b, 300c, 300d, 300e, 300f, 301, 303, 306 to 309, 311, 685, 689, 691, 692, 695, 698, 700, 702, 712, 715, 716, 724, 727, 842, 844 to 854 and 856.

(3) Any difference arising under this section between the authorised undertaker and EAL shall, unless the parties otherwise agree, be determined by arbitration.

(4) Unless otherwise agreed with EAL, the authorised undertaker shall not take possession of any land referred to in subsection (2) or commence any part of the authorised works on that land until agreement is reached or a determination is made in accordance with the requirements of this section.

(5) Notwithstanding the terms of section 67(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), any lease of the land referred to in subsection (2) which is granted by EAL to the authorised undertaker may continue for a period of up to 250 years.

PART 3

MISCELLANEOUS AND GENERAL

37 Power to fell, etc. trees or shrubs

(1) The authorised undertaker may fell, or lop or cut back the roots of, any tree or shrub near any part of the authorised works (or land proposed to be used for the authorised works), if it reasonably believes such action to be necessary in order to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised works or any apparatus used for the purposes of the authorised works; or

(b) from constituting a danger to persons using the authorised works.

(2) In exercising the powers conferred by subsection (1), the authorised undertaker shall not do any unnecessary damage to any tree or shrub.

(3) Any person who suffers loss or damage arising from the exercise of the powers conferred by 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 compensation, shall be determined under the 1963 Act.

(5) The following, namely—

(a) an order under section 160(1) of the 1997 Act (tree preservation orders); and

(b) section 172(1) of that Act (which prohibits the doing in a conservation area of any act which might be prohibited by a tree preservation order),

shall not apply to any exercise of the powers conferred by subsection (1).

38 Traffic regulation

(1) The following provisions of this section shall have effect so as to enable the authorised undertaker, in connection with the construction of the authorised works, to regulate traffic in Burnshot Road for any of the purposes mentioned in section 1(1) of the 1984 Act.

(2) Part 1 of the 1984 Act shall have effect in relation to—

(a) the road specified in subsection (4); and

(b) the restriction and revocation authorised by that subsection,

in accordance with the following provisions of this section.

(3) Accordingly—

(a) section 1(1) of the 1984 Act shall apply as if the authorised undertaker as well as the Council were the local traffic authority;

(b) the restriction and revocation authorised by subsection (4) are included in the provision that may be made by a traffic regulation order under section 2 of that Act;

(c) any restriction or revocation made by the authorised undertaker or the Council under this section shall have effect as if duly made by the Council as a traffic regulation order under section 1(1) of that Act.

(4) Subject to the provisions of this section, the local traffic authority may, in connection with the construction of the authorised works, at any time prior to the expiry of 12 months from the opening of the authorised works for public use—

(a) impose restrictions on the use of the portion of Burnshot Road between its junctions with, respectively, the A90 and Main Street, Kirkliston; and

(b) revoke in whole or in part any traffic regulation order in so far as the revocation is consequential on any restriction made under this subsection.

(5) The local traffic authority shall not exercise the powers conferred by this section unless it has given not less than 12 weeks' notice in writing of its intention so to do to the Chief Constable of Lothian and Borders Police; and the authorised undertaker shall not exercise the powers conferred by this section unless it has in addition obtained the prior consent of the Council.

(6) The Council shall not exercise the powers conferred by this section unless it has consulted the authorised undertaker.

(7) The instrument by which any restriction or revocation is effected under this section may specify savings to which the restriction or revocation is subject.

(8) Any restriction or revocation made under this section may be varied or revoked from time to time by subsequent exercises of the powers conferred by this section (whether or not prior to the expiry of the period of 12 months referred to in subsection (1)), but the authorised undertaker shall not vary or revoke any provision previously made by the Council under this section without the consent of the Council, and the Council shall not vary or revoke any provision previously made by the authorised undertaker under this section without the consent of the authorised undertaker.

(9) Any restriction or revocation made under this section may also be varied or revoked from time to time by the Council by a traffic regulation order under the 1984 Act, but the Council shall not by such an order vary or revoke any provision previously made by the authorised undertaker under this section without the consent of the authorised undertaker.

(10) Any consent required under subsection (5), (8) or (9) shall not be unreasonably withheld.

(11) Any dispute as to whether consent under subsection (5), (8) or (9) has been unreasonably withheld shall, unless the parties otherwise agree, be determined by arbitration.

(12) In this section—

"the 1984 Act" means the Road Traffic Regulation Act 1984 (c.27);

"the Council" means City of Edinburgh Council; and

"local traffic authority" had the meaning given by section 121A of the 1984 Act.

39 Powers of disposal, agreements for operation, etc.

(1) In addition to any thing the authorised undertaker may do by virtue of any enactment or rule of law, it shall be competent for the authorised undertaker to enter into, and carry into effect, in connection with the authorised works, any agreement that includes provision for the matters described in subsection (2).

(2) The matters referred to in subsection (1) are—

(a) the transfer to and vesting in another person of all or any of the functions of the authorised undertaker under this Act, including the powers conferred by this section;

(b) the disposal of the whole or any part of the undertaking consisting of the authorised works and any land held for the purposes of, or in connection with, those works;

(c) the creation of any heritable security, charge or other encumbrance secured on the undertaking.

(3) Any restrictions, liabilities or obligations to which the authorised undertaker is subject—

(a) under this Act; or

(b) under any undertaking or commitment given, by or on behalf of **tie** or any other authorised undertaker, at any time, whether before or after the passing of this Act,

shall (notwithstanding any enactment or rule of law) be equally binding on any authorised undertaker.

(4) Within 21 days of the completion of any agreement providing for any matter described in subsection (2)(a), the authorised undertaker making the transfer shall serve notice on the Scottish Ministers stating the name and address of the transferee and the date when the transfer is to take effect.

(5) If an authorised undertaker fails, without reasonable excuse, to comply with the obligation imposed by subsection (4) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) On the completion of an agreement the effect of which is to—

(a) vest any of the authorised works in Network Rail; or

(b) transfer to Network Rail the powers conferred by this Act relating to any of those works,

no further agreement concerning the matters described in subsection (2) may be made under this section in relation to the works so vested or the powers so transferred by that first agreement.

(7) In subsection (1), an agreement entered into in connection with the authorised works includes any agreement—

(a) with respect to the funding, construction, maintenance and operation of the authorised works and any matter consequential thereon or incidental or ancillary thereto; or

(b) which (whether separately or as part of any other agreement) contains such supplementary, incidental, transitional and consequential provisions as the authorised undertaker may consider to be necessary or expedient.

(8) In this section, unless the context otherwise requires—

"disposal" includes sale, lease, excambion and charge; and

"functions" includes powers, duties and obligations.

40 Statutory undertakers, etc.

The provisions of schedule 7 to this Act shall have effect in relation to the authorised works.

41 Historic obligations relating to former railway

(1) As from—

(a) the acquisition of any land by the authorised undertaker, whether compulsorily or by agreement; or

(b) the entry on the land by the authorised undertaker under section 29,

whichever occurs earlier, BRBR shall be discharged from any obligation to which it is subject in relation to that land under any statutory provision in a private Act or provisional order specifically relating to the former railway, including any provision of the 1845 Act or the Railways Clauses Consolidation Act 1863 that is incorporated in such a private Act or provisional order.

(2) In this section—

"BRBR" means BRB (Residuary) Limited (company no. 04146505) and its successors;

"the former railway" means any railway which at any time prior to the passing of this Act, was situated within the limits of deviation of Work No. 1 or Work No. 5;

"provisional order" means an order made under the Private Legislation Procedure (Scotland) Act 1936 (c.52) or any earlier Act which that Act replaced.

42 Listed buildings and conservation areas

Schedule 8 to this Act (which makes provision for the disapplication or modification, in relation to the authorised works, of controls relating to listed buildings, buildings in conservation areas and ancient monuments, etc.) shall have effect.

43 Saving for town and country planning

(1) The 1997 Act and any orders, regulations, rules, schemes and directions made or given thereunder and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development of that land is or may be authorised or regulated by or under this Act.

(2) In their application to development authorised by this Act, article 3 of, and Class 29 in Part 11 of Schedule 1 to, the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I. 1992/223) (which permit development authorised by (among other enactments) any Act of the Parliament which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the date on which this Act comes into force.

(3) Subsection (2) shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of the authorised works or the substitution of new works therefor.

(4) In the application of the Conservation (Natural Habitats &c.) Regulations 1994 (S.I. 1994/2716) to the authorised works, the Parliament is the competent authority.

44 Interpretation of sections 45 and 46

(1) In sections 45 and 46—

"currency", in relation to a financial support contract, means the period during which—

(a) a financial support contract is in force; and

(b) financial obligations under the financial support contract relating to the provision of the authorised works remain to be discharged;

"developer contribution" means a developer contribution obtained under section 45(3);

"financial support contract" means—

(a) an agreement under which a party to the agreement makes a commitment to—

(i) procure funding for the provision of the authorised works;

(ii) approve any of the relevant planning authorities incurring expenditure or entering into any financial obligation for that purpose;

(b) a contract under which a party to the contract is obliged to provide money to pay for providing the authorised works and the authorised undertaker is obliged to pay interest or otherwise give monetary consideration for that money; or

(c) a contract under which a party to the contract is obliged to provide, or to procure the provision of, all or part of the authorised works for a consideration all or part of which is represented by the transfer or grant to that person of assets or benefits in either case other than money;

"provision", in relation to any part of the authorised works, means the design, construction or financing of those works, and includes maintenance and operation so far as provided in conjunction with design, construction or financing; and

"section 75 agreement" means an agreement entered into by a planning authority under section 75 of the 1997 Act.

(2) For the purposes of subsection (1) and of sections 45 and 46 the relevant planning authorities are the City of Edinburgh Council and West Lothian Council.

45 Planning agreements

(1) Section 75 of the 1997 Act shall, in its application to the relevant planning authorities, have effect in accordance with the following provisions of this section.

(2) A relevant planning authority shall not be precluded from entering into a section 75 agreement which includes provision for developer contributions in respect of the authorised works by reason only of the fact that all or some of the authorised works are located outwith the local government area of the planning authority concerned.

(3) Subject to subsections (4) to (10), in any section 75 agreement made pursuant to this section, financial provisions relating to the authorised works may include the payment of developer contributions towards the cost of providing the authorised works.

(4) The developer contributions obtained by the relevant planning authorities towards the cost of providing the authorised works shall not in aggregate exceed the total of the sums necessary for the purpose of providing the authorised works.

(5) No section 75 agreement made pursuant to this section shall—

(a) have effect; or

(b) be made,

after the expiry of ten years beginning on the date on which this Act comes into force.

(6) No requirement for payment of a developer contribution under subsection (3) shall be included in any section 75 agreement relating to development (including the erection or alteration of an operational building) on operational land of Edinburgh Airport.

(7) Where—

(a) a person with an interest in land has made a contribution towards the cost of providing the authorised works or any development relating to, supporting or otherwise connected with the authorised works;

(b) development on that land is or may be the subject of a section 75 agreement; and

(c) a requirement for a developer contribution under subsection (3) might be included in the section 75 agreement,

the value of the developer contribution which might be required shall be reduced by the value of the contribution referred to in paragraph (a).

(8) Subsection (7)(a) applies to any contribution of the sort described in that subsection, whether made before or after the passing of this Act and whether or not pursuant to a section 75 agreement.

(9) For the purposes of this section and section 46 the sums necessary for the purpose of providing the authorised works include all sums from time to time payable for that purpose, and (without prejudice to that generality) include interest payments, loan charges and sums payable under or in consequence of any financial support contract.

(10) Accordingly, during the period specified in subsection (5) developer contributions may be required at any time during the currency of a loan agreement or a financial support contract.

(11) A requirement for developer contributions does not amount to the raising of money by making a levy or imposition within the meaning of section 22(7) of the Local Government in Scotland Act 2003 (asp 1).

46 Application of developer contributions

(1) A relevant planning authority shall secure that any developer contribution it obtains towards the cost of providing the authorised works is paid to the burdened undertaker within 12 months of its receipt.

(2) A developer contribution that is not paid to the burdened undertaker within 12 months of its receipt as required by subsection (1) shall on the expiry of that period be repayable to the person from whom it was obtained.

(3) For the purposes of this section the burdened undertaker is a person or persons to whose account is debited the capital cost of constructing the authorised works, or any debt or other charge or encumbrance in respect of or by way of funding for such cost and who is—

(a) notified from time to time by the authorised undertaker to the relevant planning authority as the burdened undertaker to whom developer contributions should be paid, and if more than one in what proportions; or

(b) in the absence of such notification, the authorised undertaker.

47 Blighted land

This Act shall be deemed to be a special enactment for the purposes of paragraph 14 of Schedule 14 to the 1997 Act.

48 Application of Crichel Down Rules

(1) The authorised undertaker shall apply the Crichel Down Rules in relation to surplus land.

(2) In this section—

"the Crichel Down Rules" means the rules set out in the Scottish Development Department Circular 38 of 1992 ("Disposal of Surplus Government Land – the Crichel Down Rules") as amended or superseded from time to time;

"surplus land" means any land acquired compulsorily under section 17 which is subsequently declared by the authorised undertaker to be surplus to the authorised undertaker's requirements for the provision of the authorised works.

49 Mitigation of environmental impacts

(1) The authorised undertaker shall employ all reasonably practicable means to ensure—

(a) that the environmental impacts of the construction and operation of the authorised works as described in the environmental statement are not worse than the residual impacts identified in the environmental statement in relation to those works; and

(b) that—

(i) the additional environmental mitigation measures identified in the promoter's undertakings are carried out; or

(ii) the environmental impacts of the construction or operation of the authorised works as so described are not worse than they would have been had the mitigation measures referred to in sub-paragraph (i) been carried out.

(2) In this section—

"environmental statement" means the environmental statement submitted to the Parliament as an accompanying document with the Bill for this Act;

"the promoter's undertakings" means all undertakings given by **tie** as Promoter of the Bill for this Act—

(a) to the Committee during the Consideration Stage of the Bill for this Act; or

(b) to any person in connection with that Bill;

"residual impacts" means the environmental impacts of the construction or operation of the authorised works after the mitigation measures proposed in the environmental statement have been carried out.

50 Compliance with code of construction practice and noise and vibration policy, etc.

(1) The authorised undertaker shall employ all reasonably practicable means to ensure that—

(a) the authorised works are carried out in accordance with the code of construction practice as approved by the local planning authority for each area in which the authorised works are located and from time to time amended or replaced in accordance with schedule 9; and

(b) the noise and vibration policy and any mitigation commitment document, as from time to time amended or replaced, is applied to the use and operation of the authorised works as described in that policy and the environmental statement.

(2) None of the code of construction practice, the noise and vibration policy or any mitigation commitment document shall be amended or replaced so as to reduce the standards of mitigation and protection provided for in the versions being amended or replaced.

(3) Schedule 9 has effect in relation to the approval, amendment and replacement of the code of construction practice.

(4) In this section "noise and vibration policy" means the "Noise and Vibration Policy Paper" dated 12 January 2007, a copy of which has been lodged with the Clerk of the Parliament to be held with the accompanying documents relating to the Bill for this Act.

51 Regulation of mitigation measures

(1) The requirements imposed by or pursuant to the following provisions, that is to say—

(a) sections 49 and 50; and

(b) schedule 9 to this Act,

shall be enforceable, and the local planning authority shall have the responsibility to enforce them, as valid planning conditions.

(2) For the purposes only of such enforcement and any appeal against a decision of the local planning authority under this Act, planning permission for the construction of the authorised works shall be deemed to have been granted under section 37 of the 1997 Act subject to the imposition of those conditions under section 41 of that Act.

(3) The authorised undertaker shall maintain a directory containing the code of construction practice, the noise and vibration policy, any local construction plan and any mitigation commitment document.

(4) The local planning authority shall appoint an Environmental Compliance Officer responsible for the discharge by the local planning authority of its functions under this section.

52 Protection of the water environment

Nothing in this Act affects the operation of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (SSI 2005/348) in relation to Works Nos. 3D, 3E, 4B and 4D or any ancillary work described in paragraph 7 of schedule 2 to this Act.

53 Saving for Railways Act 1993

Section 49 and section 50 do not affect the carrying out of any activity that is—

(a) subject to regulation under the Railways Act 1993 (c.43); or

(b) connected with such an activity and subject to standards, guidance or other measures that form part of the terms of such regulation.

54 Certification of plans, etc.

(1) As soon as practicable after the coming into force of this Act, the authorised undertaker shall submit copies of the book of reference, the Parliamentary plans and the Parliamentary sections to the Clerk of the Parliament for certification under this section.

(2) On being satisfied as to the accuracy of documents submitted under subsection (1), the Clerk shall certify them as being, respectively the book of reference, Parliamentary plans and Parliamentary sections referred to in this Act.

(3) A document certified under subsection (2) shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

55 Registration of new rights

(1) A servitude or other right acquired by the authorised undertaker under section 18 or 19 shall, unless otherwise expressly stated in the instrument by which it is created, be treated for all purposes as benefiting the land from time to time held by the authorised undertaker for the purposes of the authorised works.

(2) Notwithstanding section 75 of the Title Conditions (Scotland) Act 2003 (asp 9), where a servitude falls to be treated as mentioned in subsection (1), the deed by which it is created shall be effective whether or not it is registered against the benefited property.

56 Dispute resolution

(1) Where under this Act any dispute (other than a dispute to which the provisions of the Lands Clauses Acts apply) is to be determined by arbitration (in default of other agreed dispute resolution procedure), the dispute shall be referred to, and settled by, a single arbiter to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.

(2) Except as provided in sections 7(6) and 8(6), an arbiter appointed under this section shall be entitled to state a case for the opinion of the Court of Session pursuant to section 3 of the Administration of Justice (Scotland) Act 1972 (c.59).

(3) Section 108 of the 1996 Act (right to refer disputes to adjudication) and any regulations made under that section shall not apply to any dispute under this Act (whether or not it is a dispute of the sort described in subsection (1)).

(4) Subsection (3) does not affect the operation of the 1996 Act so far as applicable to any contract under which a contracting party other than the authorised undertaker is responsible for the construction or funding of the authorised works.

(5) In this section "the 1996 Act" means the Housing Grants, Construction and Regeneration Act 1996 (c.53).

57 Service of notices, etc.

(1) A notice or other document required or authorised to be served on a person for the purposes of this Act may be served—

(a) by delivering it to that person;

(b) by leaving it at that person's proper address; or

(c) by sending it by post to that person at that address.

(2) A notice or document is duly served on a body corporate or a firm—

(a) in the case of a body corporate, if it is served on the secretary or clerk of that body; and

(b) in the case of a firm, if it is served on a partner of that firm.

(3) For the purposes of subsection (1) and of paragraph 4 of Schedule 1 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 (S.I. 1999/1379), a letter is properly addressed to—

(a) a body corporate, if addressed to the body at its registered or principal office;

(b) a firm, if addressed to the firm at its principal office; or

(c) any other person, if addressed to the person at that person's last known address.

(4) Where for the purposes of this Act a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the person's name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to the person by name or by the description of "owner", or as the case may be "occupier", of the land; and

(b) leaving it—

(i) in the hands of a person who is or appears to be resident or employed on the land; or

(ii) leaving it conspicuously affixed to some building or object on or near the land.

(5) Nothing in this section precludes the use of any other method of service.

PART 4

SUPPLEMENTARY

58 Incorporation of enactments

(1) The following enactments (so far as applicable for the purposes of and not inconsistent with, or varied by, the provisions of this Act) are incorporated with this Act—

(a) the Lands Clauses Acts, except sections 120 to 124 of the 1845 Lands Act;

(b) the 1845 Act, except sections 1, 7 to 17, 19, 20, 22, 23, 25 to 37, 40 to 50, 52 to 56, 58, 59, 66, 68, 87 and 88; and

(c) in the Railways Clauses Act 1863 (c.92), section 12.

(2) In construing the enactments incorporated with this Act—

(a) this Act shall be deemed to be the special Act;

(b) the authorised undertaker shall be deemed to be the promoter of the undertaking or the company;

(c) the authorised works shall be deemed to be the works or the undertaking;

(d) sections 18 and 21 of the 1845 Act shall not apply in any case where the relations between the authorised undertaker and any other person are regulated by sections 143 and 144 of the 1991 Act; and

(e) section 60 of the 1845 Act shall have effect with the omission of the words from "Such and" to "formation thereof" and from "together with all necessary gates" to "all necessary stiles".

59 Interpretation

(1) In this Act—

"the 1845 Act" means the Railways Clauses Consolidation (Scotland) Act 1845 (c.33);

"the 1845 Lands Act" means the Lands Clauses Consolidation (Scotland) Act 1845 (c.19);

"the 1963 Act" means the Land Compensation (Scotland) Act 1963 (c.51);

"the 1991 Act" means the New Roads and Street Works Act 1991 (c.22);

"the 1997 Act" means the Town and Country Planning (Scotland) Act 1997 (c.8);

"the Act limits" means the limits of deviation and the limits of land to be acquired or used;

"the ancillary works" has the meaning given by section 3;

"associated land", in relation to a road or private access, means the land on which the road or access is constructed, together with any other land acquired by the authorised undertaker under this Act for the purpose of such construction;

"the authorised undertaker" means, in relation to any event or thing before this Act comes into force, **tie** and at any time thereafter, **tie** or such other person as is at that time designated as authorised undertaker in a transfer agreement made pursuant to section 39;

"the authorised works" means the works authorised by this Act;

"book of reference" means the book of reference submitted to the Parliament as an accompanying document with the Bill for this Act;

"code of construction practice" means the edition of the Code of Construction Practice (which sets out the measures to be employed in the construction of the authorised works so to mitigate the impact of those works) dated 19 February 2007, a copy of which has been lodged with the Clerk of the Parliament to be held with the accompanying documents relating to the Bill for this Act;

"the Committee" means the Edinburgh Airport Rail Link Bill Committee to which the Bill for this Act was referred, and includes any assessor appointed in respect of that Bill under Rule 9A.9.1B of the Standing Orders of the Parliament;

"construction" includes execution, placing, alteration and reconstruction and demolition; and "construct" and "constructed" have corresponding meanings;

"EAL" means Edinburgh Airport Limited (company no. SC96623) whose registered office is at St Andrew's Drive, Glasgow Airport, Paisley, PA3 2SW, and includes any successor to that company as operator of Edinburgh Airport;

"enactment" includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

"limits of deviation" means the limits so described on the Parliamentary plans;

"limits of land to be acquired or used" means the limits so described on the Parliamentary plans;

"limits of safeguarding" means the limits so described on the Parliamentary plans;

"local construction plan" means a code of practice intended to define, and from time to time redefine, the authorised undertaker's policy in relation to construction practice to be adopted in the carrying out of the authorised works within an area specified in that plan;

"mitigation commitment document" means a document setting out the authorised undertaker's commitments in terms of policy, plans or measures for mitigation of the environmental impacts of the authorised works or their construction;

"Network Rail" means Network Rail Infrastructure Limited (company no. 2904587) whose registered office is at 40 Melton Street, London NW1 2EE and any other of the Network Rail group of companies which holds property for railway purposes;

"operational land of Edinburgh Airport" means the land (including the land mentioned in section 36(2)) forming part of Edinburgh Airport that is used, or in which an interest is held, by EAL or any other company in the group of companies to which EAL belongs, for the purposes of EAL's undertaking as operator of Edinburgh Airport;

"Parliamentary plans" means the plans submitted to the Parliament as accompanying documents with the Bill for this Act;

"Parliamentary sections" means the sections submitted to the Parliament as accompanying documents with the Bill for this Act;

"private road" means any road which a roads authority does not have a duty to maintain;

"road" has the meaning given by section 107 of the 1991 Act;

"the road works authority" has the meaning given by section 108 of the 1991 Act;

"the roads authority" has the meaning given by section 151(1) of the Roads (Scotland) Act 1984 (c.54);

"the scheduled works" has the meaning given by section 2;

"**tie**" means **tie** Limited (company no. SC230949) whose registered office is at City Chambers, High Street, Edinburgh, Midlothian, EH1 1YJ; and

"the tribunal" means the Lands Tribunal for Scotland.

(2) Except in relation to section 4, any reference in any description of works, powers or land to area, distance, length or direction, or to a particular location, shall be construed as if qualified by the words "or thereby".

60 Rights of the Crown, Government departments and Scottish Ministers

(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Scottish Ministers.

(2) Without prejudice to the generality of subsection (1), nothing in this Act authorises the acquisition of land (including any rights or interests in land) held or used by a minister of the Crown, a government department or the Scottish Ministers without the consent in writing of that minister or government department or of the Scottish Ministers.

(3) A consent under subsection (2) may be given unconditionally or subject to terms and conditions.

61 Short title

This Act may be cited as the Edinburgh Airport Rail Link Act 2007.

SCHEDULE 1
(introduced by section 2)

SCHEDULED WORKS

In the local government areas of West Lothian and the City of Edinburgh railways linking Edinburgh Airport with the Edinburgh to Glasgow Main Line via a new railway to Kirkliston and the existing Dalmeny Chord railway to the north-west and a new railway to the south connecting with the Main Line at Roddinglaw and linking the airport to the Edinburgh to Fife and North East Railway via new railways connecting with that railway at Dalmeny and Gogar; including a new station at Edinburgh Airport and comprising—

In the local government areas of West Lothian and the City of Edinburgh—

Work No. 1—A railway (3,855 metres in length) between Winchburgh Junction and Kirkliston commencing by a junction with the Edinburgh to Glasgow Main Line at a point 68 metres north-west of the bridge carrying the track between Duntarvie and Auldcathie over that railway, passing eastwards and terminating by a junction with the Dalmeny Chord railway at a point 125 metres west of the bridge carrying the M9 spur over that railway. Work No. 1 includes the reconstruction of the bridge carrying the railway over the B8020 road.

In the local government area of West Lothian—

Work No. 1A—A railway (1,166 metres in length) at Winchburgh Junction commencing by a junction with the Edinburgh to Glasgow Main Line at a point 30 metres east of the bridge carrying the track between Duntarvie and Auldcathie over that railway, passing eastwards and southwards and terminating by a junction with the Edinburgh to Glasgow Main Line at a point beneath the aqueduct carrying an unnamed watercourse from the Union Canal to the Swine Burn over that railway.

Work No. 1B—A realignment of the access road between the Union Canal and the B8020 road commencing at a point in that access road 60 metres east of the bridge carrying that road over the Edinburgh to Glasgow Main Line and terminating at a point in that road 5 metres east of that bridge. Work No. 1B includes a bridge to carry the access road over Work No. 1A.

In the local government area of the City of Edinburgh—

Work No. 2—A railway (3,165 metres in length and partly in tunnel) between Kirkliston and Wheatlands commencing by a junction with Work No. 1 at its termination, passing eastwards and south-eastwards and terminating in tunnel beneath a point 150 metres north-west of the confluence of the Gogar Burn with the River Almond. Work No. 2 includes a bridge to carry the railway over Work No. 2C and a ventilation shaft with a structure above ground occupying an area not exceeding 40 square metres between the point marked A on the Parliamentary plans and the commencement of Works Nos. 3A and 3B.

Work No. 2A—An access road commencing by a junction with the road (Work No. 2C) at a point 90 metres south of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing westwards and terminating at a point 25 metres east of the bridge carrying the M9 Spur over the Dalmeny Chord railway.

Work No. 2B—An access road commencing by a junction with the road (Work No. 2C) at a point 40 metres south of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing westwards and terminating at a point 140 metres south-west of that bridge.

Work No. 2C—A realignment of Queensferry Road (B800) commencing at a point in that road 165 metres north of the junction of Newmains Road with Queensferry Road, passing northwards and terminating at a point in Queensferry Road (B800) 75 metres south of the centre of the roundabout at the junction of the M9 Spur with the A8000 and Queensferry Road (B800). Work No. 2C includes strengthening works to the bridge carrying the Dalmeny Chord railway over the proposed road.

Work No. 2D—An access road commencing by a junction with the road (Work No. 2C) at a point 85 metres south of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing eastwards and terminating at a point in the access road leading from Queensferry Road (B800) to Almondhill 230 metres east of the junction of that access road with Queensferry Road (B800).

Work No. 2E—An access road commencing by a junction with the road (Work No. 2C) at a point 35 metres south of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing eastwards then northwards and terminating at a point 340 metres north of the north-eastern corner of No. 18 Almondhill Steading.

Work No. 2F—An access road commencing by a junction with the access road (Work No. 2E) at a point 410 metres east of the junction of the access road leading from Queensferry Road (B800) to Almondhill Steading with Queensferry Road (B800), passing eastwards and terminating at a point 120 metres east of its commencement.

Work No. 2G—A drain commencing at a point 240 metres south-east of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing eastwards and south-eastwards and terminating in the existing sink at a point 104 metres north-west of the north-eastern corner of No. 23 Almondhill Steading.

Work No. 2H—A drain commencing in the existing issues at a point 365 metres north-east of the north-eastern corner of No. 6 Almondhill Steading, passing eastwards and terminating in the existing sinks at a point 450 metres north-east of No. 7 The Verge Cottages.

Work No. 2J—A road (being a partial realignment of Burnshot Road) commencing at a point in that road 300 metres north-east of No. 7 The Verge Cottages, passing north-eastwards and terminating at a point in that road 510 metres south-west of the south-western corner of No. 1 Carlowrie Cottages. Work No. 2J includes a bridge to carry the realigned road over Work No. 2.

Work No. 2K—A realignment of the Newbridge to South Queensferry walkway commencing at a point in that walkway 590 metres east of the northern corner of No. 6 Almondhill Steading, passing north-eastwards and terminating at a point in that walkway 540 metres south-west of the south-western corner of No. 1 Carlowrie Cottages. Work No. 2K includes a bridge to carry the cycleway forming part of the walkway over Work No. 2.

Work No. 2L—A drain commencing at a point 25 metres north-west of the junction of the access road leading from Wheatlands Cottage with Wheatlands Road, passing southwards and terminating in the River Almond at a point 244 metres north-east of Boathouse Bridge over that river.

Work No. 2M—A temporary diversion of Queensferry Road (B800) commencing at a point in that road 75 metres north of the junction of Newmains Road with Queensferry Road, passing northwards and terminating on the south side of the roundabout at the junction of the M9 Spur with the A8000 and Queensferry Road (B800). Work No. 2M includes a bridge to carry the Dalmeny Chord railway over the temporary road.

Work No. 3A—A railway (1,058 metres in length in tunnel) between Wheatlands and the proposed station at Edinburgh Airport (part of Work No. 4) commencing by a junction with Work No. 2 at its termination, passing south-eastwards beneath the River Almond then southwards beneath Edinburgh Airport main runway and terminating at a point beneath the airport 175 metres south-east of the south-east corner of the airport terminal building.

Work No. 3B—A railway (1,054 metres in length in tunnel) between Wheatlands and the proposed station at Edinburgh Airport (part of Work No. 4) commencing by a junction with Work No. 2 at its termination, passing south-eastwards beneath the River Almond then southwards beneath Edinburgh Airport main runway and terminating at a point beneath the airport 175 metres south-east of the south-east corner of the airport terminal building.

Works Nos. 3A and 3B include a ventilation shaft with a structure above ground occupying an area not exceeding 40 square metres between the termination of Work No. 2 and the point marked B on the Parliamentary plans. Works Nos. 3A and 3B also include a diversion of the airport perimeter road between the points marked A1 and A2 on the Parliamentary plans.

Work No. 3C—An access road commencing at a point 63 metres west of the confluence of the Gogar Burn with the River Almond, passing south-westwards and terminating at a point 230 metres north-east of Boathouse Bridge over the River Almond.

Work No. 3D—A temporary diversion of the River Almond commencing in that river at a point 310 metres north-east of Boathouse Bridge over that river, passing north-eastwards over Works Nos. 3A and 3B and terminating in the River Almond at a point 150 metres east of the confluence of the Gogar Burn with the River Almond.

Work No. 3E—A diversion of Gogar Burn commencing in that burn at a point 130 metres south-east of its confluence with the River Almond, passing north-westwards and terminating in the River Almond at a point 80 metres south-west of its confluence with the River Almond. Work No. 3E includes a diversion of the airport perimeter road between the points marked A3 and A4 on the Parliamentary plans.

Work No. 3F—An access road commencing at a point 55 metres south of the confluence of the Gogar Burn with the River Almond, passing south-westwards and terminating at a point 70 metres south-east of Boathouse Bridge over the River Almond. Work No. 3F includes a bridge to carry the road over Work No. 3E.

Work No. 4—A railway (3,829 metres in length and partly in tunnel) between the proposed station at Edinburgh Airport and Roddinglaw Junction commencing by a junction with Works Nos. 3A and 3B at their terminations, passing southwards and eastwards and terminating by a junction with the Edinburgh to Glasgow Main Line at a point 5 metres west of the bridge carrying Gogar Station Road over that railway. Work No. 4 includes a ventilation shaft with a structure above ground occupying an area not exceeding 40 square metres between the termination of Works Nos. 3A and 3B and the point marked C on the Parliamentary plans, a station at Edinburgh Airport and bridges to carry the railway over Works Nos. 4D and 4E and a tunnel under Work No. 4A.

The station may be situated at any point between the commencement of Work No. 4 and the point marked G on the Parliamentary plans. If the station is constructed in open cutting the southern portal of the tunnel forming part of Work No. 4 will be at a point between the points marked D and E on the Parliamentary plans. If the station is constructed as an underground station that portal will be at a point between the points marked F and G on the Parliamentary plans.

Work No. 4A—A railway (1,743 metres in length) commencing by a junction with the Edinburgh to Glasgow Main Line at a point 440 metres south-east of the bridge carrying that railway over Freelands Road, passing south-eastwards over Works Nos. 4L and 4 and terminating by a junction with that railway at a point 105 metres west of the bridge carrying Gogar Station Road over that railway.

Work No. 4B—A diversion of Gogar Burn commencing at a point in that burn 295 metres north of the bridge carrying Eastfield Avenue over that burn, passing southwards and terminating at a point in that burn 475 metres north of that bridge.

Work No. 4D—A diversion of Gogar Burn commencing at a point in that burn 330 metres south-east of the roundabout at the junction of Gogar Bridge Road and Eastfield Avenue, passing south-westwards under Works Nos. 6, 4E and 4, then northwards and terminating at a point in that burn 170 metres south of that roundabout. Work No. 4D includes a conduit to carry the Gogar Burn under Work No. 4E.

Work No. 4E—An access road commencing at a point in Eastfield Road 65 metres south of No. 19 Eastfield Road, passing north-eastwards and terminating at a point 273 metres south of the roundabout at the junction of Gogar Bridge Road and Eastfield Avenue. Work No. 4E includes a platform to carry traffic across the conduit forming part of Work No. 4D.

Work No. 4F—A temporary diversion of Glasgow Road (A8) commencing at a point in that road 300 metres west of the junction of Gogarstone Road with Glasgow Road, passing eastwards and terminating at a point in Glasgow Road 40 metres north-west of that road junction.

Work No. 4G—A temporary diversion of Glasgow Road (A8) commencing at a point in that road 275 metres west of the junction of Gogarstone Road with Glasgow Road, passing eastwards and terminating at a point in Glasgow Road 15 metres north-west of that road junction.

Work No. 4H—A road (being a partial realignment of Freelands Road) commencing at a point in Freelands Road and Gogarstone Road 270 metres north-east of the bridge carrying the Glasgow to Edinburgh railway over that road, passing northwards over Work No. 4 and terminating at a point in Gogarstone Road 150 metres south of the junction of that road with Glasgow Road (A8). Work No. 4H includes a bridge to carry the road over Work No. 4.

Work No. 4J—A road (being a partial realignment of Roddinglaw Road) commencing by a junction with the road (Work No. 4H) at a point 90 metres north-west of the existing junction of Gogarstone Road with Freelands Road and Roddinglaw Road, passing south-eastwards and terminating at a point in Roddinglaw Road 48 metres south-east of that road junction.

Work No. 4K—An access road commencing at a point in Roddinglaw Road 170 metres south-east of the existing junction of Gogarstone Road with Freelands Road and Roddinglaw Road, passing south-westwards and terminating at a point 160 metres south-west of its commencement.

Work No. 4L—An access road commencing at a point in Roddinglaw Road 10 metres north of the bridge carrying that road over the Edinburgh to Glasgow railway, passing westwards then north-eastwards and eastwards and terminating at a point in the existing access road leading from Roddinglaw Road to Gogar Station Road 96 metres east of the existing junction of that access road with Roddinglaw Road. Work No. 4L includes bridges to carry the road over Works Nos. 4A and 4.

Work No. 4M—An access road commencing at a point in Roddinglaw Road 160 metres north-west of the existing junction of the access road leading from Roddinglaw Road to Knocktower with Roddinglaw Road, passing south-eastwards and terminating by a junction with the access road (Work No. 4L) at a point 95 metres north-west of that existing road junction.

Work No. 4N—An access road commencing by a junction with the access road (Work No. 4L) at a point 20 metres north-west of the bridge carrying Roddinglaw Road over the Edinburgh to Glasgow railway, passing eastwards and terminating at a point 75 metres north-east of the northern corner of No. 1 Roddinglaw Cottages.

Work No. 4P—A road commencing at a point in Roddinglaw Road 20 metres south of the bridge carrying the Edinburgh to Glasgow railway over that road, passing north-westwards adjacent to the railway and terminating at a point in Freelands Road 100 metres south-west of the bridge carrying that railway over that road.

Work No. 4Q—A drain commencing in an existing burn adjacent to Freelands Road at a point 50 metres north-east of the bridge carrying that road over the Edinburgh to Glasgow railway, passing southwards then south-eastwards and terminating in that existing burn at a point 15 metres north of the bridge carrying that railway over an unnamed watercourse between Ashley and Gogarbank.

Work No. 4R—An access road commencing at a point in Gogar Station Road 20 metres south of the bridge carrying that road over the Edinburgh to Glasgow railway, passing westwards and terminating at a point 425 metres west of its commencement.

Work No. 4S—An access road commencing at a point in Gogar Station Road 30 metres north of the bridge carrying that road over the Edinburgh to Glasgow railway, passing westwards and terminating at a point 190 metres west of its commencement.

Work No. 4T—A road commencing by a junction with the road (Work No. 4P) at a point 55 metres west of the bridge carrying Roddinglaw Road over the Edinburgh to Glasgow railway, passing southwards and terminating at a point 50 metres south of its commencement.

Work No. 5—A railway (2,653 metres in length and partly in tunnel) between Airport North Junction and Wheatlands commencing by a junction with the Edinburgh to Fife and North East railway at a point 12 metres south of the bridge carrying the A90 road over that railway, passing southwards and terminating by a junction with Work No. 2 in tunnel beneath a point 385 metres south-east of the junction of the access road leading from Wheatlands Road to Wheatlands Cottage. Work No. 5 includes a bridge to carry the railway over Work No. 5B.

Work No. 5A—An access road commencing by a junction with the cycleway (Work No. 5B) at a point 20 metres west of the bridge carrying the Edinburgh to Fife and North East railway over Dolphington Burn, passing northwards over that burn and terminating at a point 172 metres north of that bridge.

Work No. 5B—A cycleway commencing by a junction with the road (Work No. 5C) at a point 100 metres west of the north-western corner of Standingstone Cottage, passing northwards then eastwards and terminating by a junction with Standingstane Road at a point 5 metres east of the bridge carrying the Edinburgh to Fife and North East railway over Dolphington Burn.

Work No. 5C—A road (being a partial realignment of the un-named road between Queensferry Road (A8000) and Standingstane Road) commencing by a junction with the un-named road at a point 150 metres west of the junction of that un-named road with Standingstane Road, passing eastwards over Work No. 5 and terminating by a junction with the road (Work No. 5E) at a point 25 metres north of that road junction. Work No. 5C includes a bridge to carry the road over Work No. 5.

Work No. 5D—A temporary realignment of Standingstane Road for the duration of the construction of Works Nos. 5C and 5E, commencing at a point in Standingstane Road 160 metres north of the junction of the un-named road between Queensferry Road (A8000) and Standingstane Road with Standingstane Road, passing southwards and terminating at a point in that road 305 metres south of that road junction.

Work No. 5E—A realignment of Standingstane Road commencing at a point in that road 183 metres north of the junction of the un-named road between Queensferry Road (A8000) and Standingstane Road with Standingstane Road, passing southwards and terminating by a junction with the road (Work No. 5G) at a point 340 metres south of that road junction.

Work No. 5F—A cycleway commencing by a junction with the existing cycle track 15 metres north of the bridge carrying that track over Burnshot Road, passing northwards and terminating by a junction with the road (Work No. 5C) at a point 60 metres west of the junction of the un-named road between Queensferry Road (A8000) and Standingstane Road with Standingstane Road.

Work No. 5G—A road (being a partial realignment of Burnshot Road) commencing at a point in Burnshot Road 480 metres south-west of the south-western corner of No. 1 Carlowrie Cottages, passing north-eastwards, then eastwards and south-eastwards and terminating at a point in Burnshot Road adjacent to No.3 Carlowrie Farm Cottages. Work No. 5G includes a bridge to carry the road over Work No. 5.

Work No. 5H—A road (being a partial realignment of Wheatlands Road) commencing by a junction with the road (Work No. 5G) at a point 175 metres north-west of the bridge carrying the Newbridge to South Queensferry walkway over Wheatlands Road, passing south-eastwards and terminating at a point in that road 5 metres north-west of that bridge.

Work No. 5J—A road commencing by a junction with the road (Work No. 5H) at a point 85 metres north-west of the bridge carrying the Newbridge to South Queensferry walkway over Wheatlands Road, passing north-eastwards and terminating at a point in Burnshot Road 95 metres north of that bridge.

Work No. 5K—A road (being a partial realignment of Wheatlands Road) commencing at a point in Wheatlands Road 100 metres south-east of the bridge carrying the Newbridge to South Queensferry walkway over that road, passing southwards and terminating at a point in Wheatlands Road 470 metres north of Boathouse Bridge.

Work No. 5L—An access road commencing by a junction with the road (Work No. 5K) at a point 140 metres south-east of the bridge carrying the Newbridge to South Queensferry walkway over Wheatlands Road, passing eastwards and terminating at a point 80 metres north-east of its commencement.

Work No. 5M—A diversion of an existing burn commencing at a point in that burn 40 metres east of the bridge carrying the Newbridge to South Queensferry walkway over Burnshot Road, passing southwards then eastwards and terminating at a point in that burn 305 metres south-east of the bridge carrying the Newbridge to South Queensferry walkway over Wheatlands Road. Work No. 5M includes a conduit to carry the burn under Work No. 5.

Work No. 5N—An access road commencing by a junction with the road (Work No. 5K) at a point 160 metres north-west of the junction of the access road leading from Wheatlands Cottage with Wheatlands Road, passing westwards and terminating at a point 68 metres from its commencement.

Work No. 5P—An access road commencing by a junction with the road (Work No. 5G) at a point 145 metres west of the south-western corner of No. 1 Carlowrie Farm Cottages and terminating at a point in Burnshot Road 40 metres east of the junction of Burnshot Road with Standingstane Road.

Work No. 5Q—A drain commencing at a point adjacent to No.3 Carlowrie Farm Cottages, passing south-eastwards and terminating at a point in the existing drain at Carlowrie Farm adjacent to Burnshot Road 280 metres from its commencement.

Work No. 5R—An access road commencing by a junction with the road (Work No. 5K) at a point 55 metres south-west of the junction of the access road leading from Wheatlands Cottage with Wheatlands Road, passing north-eastwards and northwards and terminating at a point in that road 25 metres south of that road junction.

Work No. 6—A railway (2,602 metres in length) between Ingliston Junction and Gogar Junction commencing by a junction with Work No. 4 at a point 85 metres south-east of the bridge carrying Eastfield Avenue over Gogar Burn, passing south-eastwards and eastwards and terminating by a junction with the Edinburgh to Fife and North East railway at a point beneath the northern side of the bridge carrying Glasgow Road (A8) over that railway. Work No. 6 includes bridges to carry the railway over Work No. 4D and Gogar Burn.

Work No. 6A—An access road (being a vertical realignment of Gogar Mains Road) commencing at a point 303 metres south-east of the southern corner of No. 1 Gogar Mains Farm Cottages, passing northwards and terminating at a point 142 metres south of that cottage. Work No. 6A includes a bridge to carry the access road over Work No. 6.

Work No. 6B—An access road (being a realignment of Castle Gogar Drive) commencing at a point in Castle Gogar Drive 80 metres north-west of the junction of that road with Glasgow Road (A8), passing northwards then westwards and terminating at a point 370 metres south-east of Castle Gogar forecourt on Castle Gogar Drive. Work No. 6B includes a bridge to carry the access road over Work No. 6.

Work No. 6C—An access road commencing by a junction with the access road (Work No. 6B) at a point in Castle Gogar Drive 400 metres south-east of Castle Gogar forecourt on Castle Gogar Drive, passing westwards and terminating at a point 295 metres north-west of the north-western corner of No. 194 Glasgow Road (A8).

Work No. 6D—An access road commencing by a junction with the access road (Work No. 6B) at a point 290 metres north-east of the north-eastern corner of No. 194 Glasgow Road (A8), passing eastwards and terminating at a point in the existing access track leading from Gogar roundabout to Meadowfield Farm 480 metres north-west of the bridge carrying Glasgow Road (A8) over the Edinburgh to Fife and North East railway.

Work No. 6E—An access road commencing by a junction with the access road (Work No. 6D) at a point 506 metres north-west of the bridge carrying Glasgow Road (A8) over the Edinburgh to Fife and North East railway, passing eastwards and terminating at a point 260 metres north-west of that bridge.

SCHEDULE 2
(introduced by section 3)

ANCILLARY WORKS

1 Stations, buildings, platforms, junctions and stopping places.

2 Bridges, subways, stairs, lifts, escalators, roundabouts and means of access.

3 Junctions and communications with, and widening of, any road, path or way.

4 Works for the provision (for the authorised undertaker or any other person) of apparatus, plant or machinery and for the accommodation of such works, including mains, sewers, pipes, drains, cables, lights, conduits and culverts.

5 Works for the strengthening, underpinning, protection, alteration or demolition of any building or structure.

6 Works or operations to stabilise the condition of any land or for the purposes of flood prevention.

7 Works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses.

8 Works to alter the position of any existing apparatus or any existing street furniture, including the alteration of the position of existing works of the sort described in paragraph 4 above.

9 Without prejudice to the generality of paragraph 8 above, works to alter the position of any railway track or other railway apparatus.

10 Landscaping, ecological and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works.

11 Works for the benefit or protection of premises affected by the authorised works.

12 The removal by the authorised undertaker of any works constructed by it pursuant to this Act which have been constructed as temporary works or which it no longer requires.

13 Such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the authorised works.

SCHEDULE 3
(introduced by sections 10 and 14)

STOPPING UP AND DIVERSION OF ROADS

PART 1

ROADS TO BE PERMANENTLY STOPPED UP

Sheet of Parliamentary plans (1)	*Road to be stopped up (2)*	*Extent of stopping up (3)*	*Substitute to be provided or alternative (4)*
In the local government area of the City of Edinburgh—			
7, 8	Queensferry Road (B800)	Between points P1 and P2	Work No. 2C
7	Access road	Between points P3 and P4	Work No. 2D
9	Track between Almondhill Farm and Almondhill Steading	Between points P5 and P6	Works Nos. 2C, 2D, 2E
10	Burnshot Road	Between points P7 and P8	Work No. 2J
10	Newbridge to South Queensferry Cycleway	Between points P9 and P10	Work No. 2K
23, 24, 26	Newbridge to South Queensferry Cycleway	Between points P11 and P12	Works Nos. 5B, 5C, 5F
10, 26	Burnshot Road	Between points P13 and P14	Works Nos. 5G, 5H, 5J
26	Burnshot Road	Between points P15 and P16	Works Nos. 5G, 5P
25	Burnshot Road	Between points P17 and P18	Works Nos. 5G, 5P
11, 12, 26	Wheatlands Road	Between points P19 and P20	Work No. 5K
26	Wheatlands Road	Between points P21 and P22	Work No. 5H
18	Freelands Road	Between points P23 and P24	Works Nos. 4H, 4J
18	Gogarstone Road	Between points P25 and P26	Works Nos. 4H, 4J
18	Roddinglaw Road	Between points P27 and P28	Work No. 4J
19	Roddinglaw Road	Between points P29 and P30	Works Nos. 4H, 4J, 4P
19	Track between Roddinglaw Road and	Between points P31 and P32	Works Nos. 4L, 4M

Sheet of Parliamentary plans (1)	*Road to be stopped up (2)*	*Extent of stopping up (3)*	*Substitute to be provided or alternative (4)*
	Gogar Station Road		
24	Standingstane Road	Between points P33 and P34	Works Nos. 5D, 5E, 5G, 5P
24	Road between Queensferry Road (A8000) and Standingstane Road	Between points P35 and P36	Work No. 5C
28	Castle Gogar Drive	Between points P37 and P38	Work No. 6B
29	Access track between Gogar roundabout and Meadowfield Farm	Between points P39, P40 and P41	Works Nos. 6B, 6D

PART 2

ROADS TO BE TEMPORARILY STOPPED UP

Sheet of Parliamentary plans (1)	*Road to be stopped up (2)*	*Extent of stopping up (3)*
In the local government area of West Lothian—		
1	Access track between Duntarvie and Auldcathie	Between points T1 and T2
2	Access track between Beatlie Road (B8020) and Union Canal at Myreside	Between points T3 and T4
In the local government area of the City of Edinburgh—		
7, 8	Queensferry Road (A8000/B800)	Between points T11 and T12
7, 9	Access track between Queensferry Road (B800) and Almondhill	Between points P4 and T5
10, 26	Newbridge to South Queensferry Cycleway	Between points P12 and P10
12, 13	Footpath over Boathouse Bridge and adjacent to south bank of River Almond	Between points T6, T7, T8
17	Glasgow Road (A8)	Between points T9 and T10

SCHEDULE 4
(introduced by section 16)

SAFEGUARDING WORKS

PART 1

LAND FOR SAFEGUARDING WORKS

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on Parliamentary plans* *(3)*
In the local government area of West Lothian—		
Winchburgh Junction	1	746 to 752
Myre	2	753 to 763, 763a, 764 to 767, 767a, 768 to 772
Niddry Mains	3	773 to 790
Muiriehall Wood	4	791 to 795, 798
In the local government area of the City of Edinburgh—		
Muiriehall Wood	4	796, 797, 799 to 802
Swine Burn	5	803 to 808, 812 to 814
Humbie	6	815 to 830
Wheatlands	11	209, 831 to 835
Wheatlands	11, 13	836, 837
Wheatlands	11, 12, 13	838
River Almond	12	840 to 846
River Almond to Burnside Road	12, 14	847
Edinburgh Airport - Main Runway to Eastfield Avenue	13, 14, 15	849
Edinburgh Airport - Main Runway to Eastfield Avenue	14, 15	848
Edinburgh Airport – Main Runway to Eastfield Avenue	14, 15, 16	850
Eastfield Avenue	16	851, 852, 855, 856

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on Parliamentary plans* *(3)*
Ingliston Mains	17	859 to 865
Easter Norton	18	866 to 875
Ashley Lodge	20	876 to 879, 881 to 888
Standingstane Road	24	893, 896, 897
Burnshot Road	25	898 to 901, 903
Castle Gogar	28	902, 902a

PART 2

SAFEGUARDING WORKS: PROCEDURE

1 Safeguarding works may be carried out—

(a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or

(b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of five years beginning with the day on which that part of the authorised works is first opened for use.

2 For the purpose of determining how the powers conferred by section 16 of this Act are to be exercised, the authorised undertaker may enter and survey any building falling within subsection (1) of that section and any land belonging to it and may affix to, place on, leave on and remove from such building or land apparatus for use in connection with such survey.

3 For the purpose of carrying out safeguarding works to a building under section 16 of this Act, the authorised undertaker may (subject to paragraphs 4 and 5)—

(a) enter the building and any land belonging to it; and

(b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

4 Before exercising—

(a) a right under section 16 of this Act to carry out safeguarding works to a building;

(b) a right under paragraph 2 to enter a building;

(c) a right under paragraph 3(a) to enter a building or land; or

(d) a right under paragraph 3(b) to enter land,

the authorised undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right; and in a case falling within sub-paragraph (a) or (c) above the notice shall also specify the safeguarding works proposed to be carried out.

5 Where notice is served under paragraph 4(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be determined by arbitration.

6 The authorised undertaker shall compensate the owners and occupiers of any building or land in relation to which the powers conferred by this schedule have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

7 Where—

(a) safeguarding works to a building are carried out under section 16 of this Act; and

(b) within the period of five years beginning with the day on which the part of the authorised works constructed in the vicinity of the building is first opened for use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the authorised works,

the authorised undertaker shall compensate the owners and occupiers of the building for any damage sustained by them.

8 Nothing in this schedule shall relieve the authorised undertaker from any liability to pay compensation under the Land Clauses Acts.

9 Any dispute as to a person’s entitlement to compensation under paragraph 6 or 7 above or as to the amount of compensation shall be determined under the 1963 Act.

SCHEDULE 5
(introduced by sections 17 and 19)

ACQUISITION OF LAND, ETC. OUTSIDE LIMITS OF DEVIATION

PART 1

ACQUISITION OF LAND

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on plans* *(3)*	*Purposes for which land to be acquired* *(4)*
In the local government area of West Lothian—			
Myre	2	17a, 17b, 41	Provision of track and access for construction and thereafter for maintenance
In the local government area of the City of Edinburgh—			
Humbie	6, 7	98b	Relocation of apparatus (subsoil only)
Humbie	7, 9	125a	Relocation of apparatus (subsoil only)
Humbie	7	136	Relocation of apparatus (subsoil only)
Humbie	7	140	Relocation of apparatus
Almondhill	9	148	Environmental mitigation
Almondhill	9	149	Relocation of apparatus (subsoil only)
Wheatlands	11, 12	194, 246b, 246c	Relocation of apparatus (subsoil only)
Wheatlands	13	246b	Relocation of apparatus (subsoil only)
Edinburgh Airport – Main Runway	14, 15	291, 291a, 300	Relocation of apparatus (subsoil only)
Gogar Bridge Road/Burnside Road/Eastfield Avenue	15,16	291b, 300a	Relocation of apparatus (subsoil only)
Eastfield Avenue	16	293	Relocation of apparatus (subsoil only)

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on plans* *(3)*	*Purposes for which land to be acquired* *(4)*
Gogar Bridge Road/Burnside Road/Eastfield Avenue	16	300b, 300c, 300d, 300e, 300f	Relocation of apparatus (subsoil only)
Ingliston Mains	16, 17	334	Replacement park and ride facilities
Ingliston Mains	17	334b, 345	Replacement park and ride facilities
Glasgow Road (A8)	17	358b	Farm access
Ingliston Mains	17, 18	365a	Access for construction and thereafter environmental mitigation
Easter Norton	18	366, 368	Relocation of apparatus (subsoil only)
Easter Norton	18	379, 381, 385a	Provision of track
Easter Norton	18	369a, 369b, 389	Environmental mitigation
Roddinglaw	18, 19	393	Environmental mitigation
Roddinglaw	19	421a	Relocation of apparatus
Roddinglaw	19	456	Environmental mitigation
Roddinglaw	19, 21, 22	460	Environmental mitigation
Ashley Lodge	20	397, 404a, 410a, 410b, 413a	Environmental mitigation
Ashley Lodge	20	400a, 400b, 400c	Farm access
Ashley Lodge/Ratho Park Golf Course	20, 30, 31	743	Exchange land for Scottish Agricultural Science Agency
Standingstane Road	24	500, 502 to 504	Relocation of apparatus
Standingstane Road	24	559	Environmental mitigation
Standingstane Road	24	561, 586	Relocation of apparatus (subsoil only)
Carlowrie	24, 25	575, 576	Environmental mitigation
Carlowrie	24, 26	580	Environmental mitigation
Carlowrie	24, 25, 26	587	Provision of road
Carlowrie	25	591	Environmental mitigation

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on plans* *(3)*	*Purposes for which land to be acquired* *(4)*
Carlowrie	26	568, 568a, 571	Relocation of apparatus (subsoil only)
Carlowrie	26	638, 638a	Environmental mitigation
Carlowrie	27, 28	674	Access for construction and thereafter environmental mitigation
Castle Gogar	27, 28	674a	Environmental mitigation
Castle Gogar	28	681	Relocation of apparatus (subsoil only)
Castle Gogar	28	681a, 693, 694, 701	Environmental mitigation
Castle Gogar	28, 29	709	Relocation of apparatus (subsoil only)
Gogar	29	712, 713, 729, 734	Relocation of apparatus (subsoil only)
Ratho Park Golf Course	31, 32	744	Exchange land for Scottish Agricultural Science Agency

PART 2

ACQUISITION OF RIGHTS

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on Parliamentary plans* *(3)*	*Purposes for which rights may be acquired* *(4)*
In the local government area of the City of Edinburgh—			
Humbie	6 ,7	98b	Access for construction and thereafter maintenance
Humbie	7, 9	125a	Access for construction and thereafter maintenance
Humbie	7	136	Access for construction and thereafter maintenance
Almondhill	9	149	Access for construction and thereafter maintenance
Wheatlands	11, 12	194, 246c	Access for construction and thereafter maintenance
Wheatlands	11	239	Access for construction and thereafter maintenance
River Almond	11, 12, 13	246b	Access for construction and thereafter maintenance
River Almond	12	275a	Access for construction
River Almond	12	279a	Access for construction and thereafter maintenance
Edinburgh Airport – Main Runway	14, 15	291, 291a, 300	Access for maintenance
Edinburgh Airport – Main Runway	15, 16	291b, 300a	Access for maintenance
Burnside Road/Eastfield Avenue/Eastfield Road	16	292a, 292b, 292c, 300e, 300f	Access for construction and thereafter maintenance
Gogar Bridge Road/Burnside Road/Eastfield Avenue	16	293, 300b, 300c, 300d	Access for maintenance
Easter Norton	18	366, 368	Access for construction and thereafter maintenance
Dalmeny	23	485	Access for maintenance
Standingstane Road	24	561, 586	Access for construction and thereafter maintenance

Location *(1)*	*Sheet of Parliamentary plans* *(2)*	*Number of land shown on Parliamentary plans* *(3)*	*Purposes for which rights may be acquired* *(4)*
Carlowrie	26	568, 568a, 571	Access for construction and thereafter maintenance
Castle Gogar	27	662a	Replacement farm access
Castle Gogar	28	681	Access for construction and thereafter maintenance
Castle Gogar	28	705, 711b	Provision of road
Castle Gogar	28, 29	709	Access for construction and thereafter maintenance
Gogar	29	712, 713, 729, 734	Access for construction and thereafter maintenance
Ratho Park Golf Course	31	743a	Access to exchange land
Gogar Station Road	33	745a	Access to exchange land

SCHEDULE 6
(introduced by section 21)

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

Location (1)	*Sheet of Parliamentary plans (2)*	*Number of land shown on plans (3)*	*Purposes for which temporary possession may be taken (4)*	*Authorised work (5)*
In the local government area of West Lothian—				
Winchburgh Junction	1	4, 5, 8	Access for construction	Works Nos. 1, 1A
Winchburgh Junction	1, 2	9a	Working space	Work No. 1
Winchburgh Junction	1	11	Working space and access for construction	Works Nos. 1, 1A
Myre	2	17, 34	Construction compound, working space and access for construction	Works Nos. 1, 1A, 1B
Myre	2	17c	Temporary landscaping	Works Nos. 1, 1A and 1B
Myre	2	9b, 33, 37	Access for construction	Works Nos. 1, 1A
Myre	2	31	Working space and access for construction	Work No. 1
In the local government area of the City of Edinburgh—				
Humbie	6, 7	98	Working space and access for construction	Works Nos. 2, 2A, 2B, 2C, 2M
Humbie	7	102, 143	Construction compound, working space and access for construction	Works Nos. 2, 2A, 2B, 2C, 2D, 2E, 2F
Humbie	7	136	Working space	Works Nos. 2, 2C, 2D, 2E
Humbie	7, 9	125	Working space and access for construction	Works Nos. 2, 2C, 2D, 2E, 2G
Almondhill	9	148a, 148b, 148c	Working space	Work No. 2G
Almondhill	9	150, 150a, 151	Working space and access for construction	Work No. 2G
Almondhill	9, 10	156	Access for construction	Works Nos. 2, 2H, 3D, 5

Location (1)	*Sheet of Parliamentary plans (2)*	*Number of land shown on plans (3)*	*Purposes for which temporary possession may be taken (4)*	*Authorised work (5)*
Carlowrie	10	163, 179	Construction compound, working space and access for construction	Works Nos. 2, 2J, 2K
Carlowrie	10	169	River protection	Works Nos. 2, 2J, 2K
Carlowrie	10	186, 187	Working space and protection of apparatus	Works Nos. 2J, 5G
Carlowrie	10, 26	164	Access for construction	Works Nos. 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H
Carlowrie	10, 11	190	Access for construction	Works Nos. 2, 2H-3D, 5
Carlowrie	10, 26	193	Construction compound, working space and access for construction	Works Nos. 5G, 5H
Wheatlands	11	198	Construction compound, working space and access for construction	Works Nos. 5, 5K
Wheatlands	11	194a, 205, 237	Access for construction	Works Nos. 5, 5R
Wheatlands	11, 26	201	Working space and access for construction	Works Nos. 5, 5K
Wheatlands	11	203, 204	Working space and access for construction	Works Nos. 5, 5K, 5R
River Almond	12	243	Working space	Works Nos. 2, 5K, 2L
River Almond	12, 13	246	Construction compound, working space and access for construction	Works Nos. 2, 2L, 3A, 3B, 3C, 3D, 3E, 3F, 5, 5K, 5N, 5R
River Almond	12	246a	Construction compound, working space and access for construction	Works Nos. 2, 2L, 3A, 3B, 3C, 3D, 3E, 3F, 5, 5K, 5N, 5R
River Almond	12	275, 278	Working space and access for construction	Works Nos. 3A, 3B, 3E, 3D, 3F
River Almond	13	263	Archaeological works	Works Nos. 3A, 3B

Location (1)	*Sheet of Parliamentary plans (2)*	*Number of land shown on plans (3)*	*Purposes for which temporary possession may be taken (4)*	*Authorised work (5)*
Edinburgh Airport – Main Runway	14, 15	291, 291a, 300	Working space and access for construction	Works Nos. 3A, 3B, 4, 4B
Burnside Road/Eastfield Avenue	15, 16	291b	Working space and access for construction	Works Nos. 3A, 3B, 4, 4B, 4D, 4E, 6
Gogar Bridge Road	15, 16	300a	Construction compound and access for construction	Works Nos. 3A, 3B, 4
Burnside Road/Eastfield Avenue/ Eastfield Road	16	292a, 292b, 292c	Access for construction	Work No. 4
Burnside Road/Eastfield Avenue	16	300b, 300c, 300d	Working space and access for construction	Works Nos. 3A, 3B, 4
Eastfield Avenue	16	293	Working space and access for construction	Work No. 4
Eastfield Avenue	16	301	River protection	Work No. 4D
Ingliston Mains	17	339, 340, 341	Working space and access for construction	Work No. 4
Ingliston Mains	17	348, 349, 350, 352, 353, 354, 358, 359, 360, 363	Working space	Works Nos. 4, 4F, 4G
Ingliston Mains	17, 18	365	Construction compound, working space and access for construction	Works Nos. 4, 4F, 4G
Ingliston Mains	17	365c	Construction compound, working space and access for construction	Works Nos. 4, 4F, 4G
Ingliston Mains	17	365b, 365d	Temporary landscaping	Works Nos. 4, 4F and 4G
Easter Norton	18	375, 378	Construction compound, working space and access for construction	Works Nos. 4H, 4J, 4
Easter Norton	18	385	Working space	Works Nos. 4, 4H

Location (1)	*Sheet of Parliamentary plans (2)*	*Number of land shown on plans (3)*	*Purposes for which temporary possession may be taken (4)*	*Authorised work (5)*
Easter Norton	18	382	Working space and access for construction	Works Nos. 4, 4H
Roddinglaw	19	416, 417, 422	Construction compound, working space and access for construction	Works Nos. 4A, 4L, 4M, 4N
Roddinglaw	19	453, 454, 455, 457	Working space and access for construction	Works Nos. 4, 4A, 4L
Ashley Lodge	20	398	Access for construction	Work No. 4P
Ashley Lodge	20	402	Construction compound, working space and access for construction	Work No. 4P
Ashley Lodge	20	402a	Temporary landscaping	Work No. 4P
Kellerstain	21	461	Working space and access for construction	Works Nos. 4, 4A
Gogar Station Road	22	465	Working space and access for construction	Works Nos. 4, 4A
Dalmeny	23	473, 485, 487, 488	Working space and access for construction.	Works Nos. 5, 5B
Standingstane Road	24	525, 538, 586	Construction compound, working space and access for construction	Works Nos. 5, 5C, 5F, 5B
Standingstane Road	24	513, 543, 561	Working space and access for construction	Works Nos. 5, 5B
Standingstane Road	24	540	Plant and materials storage and private access	Works Nos. 5E, 5D
Carlowrie	25	577	Working space and access for construction	Works Nos. 5G, 5P
Carlowrie	25	605	Working space	Work No. 5G
Carlowrie	24, 25	586a	Access for construction	Works Nos. 5G, 5P
Carlowrie	26	582, 589, 590, 593, 597, 613, 621, 622	Working space and access for construction	Works Nos. 5, 5G, 5H, 5J
Carlowrie	26	632, 639, 639a, 640	Access for construction	Works Nos. 5, 5G, 5A, 5B, 5C, 5D, 5E, 5F

Location (1)	*Sheet of Parliamentary plans (2)*	*Number of land shown on plans (3)*	*Purposes for which temporary possession may be taken (4)*	*Authorised work (5)*
Carlowrie	26	631, 633	Construction compound, working space and access for construction	Works Nos. 5G, 5H, 5J
Gogar Mains	27	301a	River protection	Work No. 4D
Gogar Mains	27	335a	Access for construction	Works Nos. 3A, 3B, 4, 4B, 4D, 4E, 4F, 6, 6A
Gogar Mains	27	662	Construction compound, working space and access for construction	Works Nos. 6, 6A
Gogar Mains	27	662a, 673	Construction compound, working space and access for construction	Works Nos. 3A, 3B, 4, 4B, 4D, 4E, 4F, 6, 6A
Castle Gogar	28	675, 677, 678, 680	Working space and access for construction	Works Nos. 6, 6B, 6C
Gogar	29	721, 728	Construction compound, working space and access for construction	Works Nos. 6, 6D, 6E
Gogar	29	726, 727, 729a, 730, 731, 732	Access for construction	Works Nos. 4, 4B, 4D, 4E, 4F, 6A, 6B, 6C, 6D, 6E

SCHEDULE 7
(introduced by section 40)

STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc. on land acquired

1 (1) Subject to the provisions of this schedule, sections 224 to 227 of the 1997 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) shall apply in relation to any land which has been acquired under this Act, or which is held by the authorised undertaker and is appropriated or used (or about to be used) by it for the purposes of this Act or for purposes connected with this Act.

(2) All such other provisions of the 1997 Act as apply for the purposes of the provisions applied by paragraph 1 above (including sections 228 to 231, which contain provisions consequential on the extinguishment of any rights under sections 224 and 225, and sections 232(2) to (4), 233 and 235, which provide for the payment of compensation) shall have effect accordingly.

(3) In the provisions of the 1997 Act, as applied by sub-paragraphs (1) and (2) above—

(a) references to the purpose of carrying out any development with a view to which land was acquired or appropriated are references to the purpose of carrying out the authorised works; and

(b) references to land acquired or appropriated as mentioned in section 224(1) of the 1997 Act are references to land acquired, appropriated or used as mentioned in sub-paragraph (1) above.

(4) Where any apparatus of a utility undertaker or of a public communications provider is removed in pursuance of a notice or order given or made under section 224, 225 or 226 of the 1997 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the authorised undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(5) Sub-paragraph (4) above shall not apply in the case of the removal of a public sewer, but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the authorised undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the person's drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(6) The provisions of the 1997 Act mentioned in sub-paragraphs (1) and (2) above, as applied by those sub-paragraphs, shall not have effect in relation to apparatus as respects which Part IV of the 1991 Act applies.

(7) In this paragraph—

"gas transporter" has the meaning given by section 7(1) of the Gas Act 1986 (c.44);

"public communications provider" has the meaning given by section 151(1) of the Communications Act 2003 (c.21); and

"utility undertaker" means a person who is—

(a) authorised by any enactment to carry on an undertaking for the supply of water;

(b) a gas transporter; or

(c) the holder of a licence under section 6 of the Electricity Act 1989 (c.29),

and who is, or is deemed to be, a statutory undertaker within the meaning of section 214 of the 1997 Act.

Apparatus of statutory undertakers, etc in stopped up roads

2 (1) Where a road is stopped up under section 10 of this Act any statutory undertaker whose apparatus is under, in, upon, over, along or across the road shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Act had not been passed.

(2) Where a road is stopped up under section 10 of this Act any statutory undertaker whose apparatus is under, in, upon, over, along or across the road may, and if reasonably requested to do so by the authorised undertaker, shall—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory undertaker may reasonably determine and have power to place it; or

(b) provide other apparatus in substitution for the existing apparatus and place it in such a position.

(3) The allowable costs of the relocation works shall be—

(a) determined in accordance with section 144 (Sharing costs of necessary measures) of the 1991 Act and any regulations for the time being having effect under that section (as having effect by virtue of section 12 of this Act); and

(b) borne by the authorised undertaker and the statutory undertaker in such proportions as may be prescribed by any such regulations.

(4) In this paragraph—

"apparatus" has the same meaning as in Part IV of the 1991 Act;

"relocation works" means works executed, or apparatus provided, under sub-paragraph (2); and

"statutory undertaker" has the same meaning as in the Roads (Scotland) Act 1984 (c.54).

SCHEDULE 8
(introduced by section 42)

LISTED BUILDINGS AND CONSERVATION AREAS

1 (1) In the case of a listed building which was not such a building immediately before the assessment date—

(a) section 6 of the Listed Buildings Act (restriction on works affecting listed buildings) shall not apply to works carried out in relation to the building in exercise of the powers conferred by Part 1 of this Act;

(b) to the extent that a notice issued in relation to the building under section 34(1) of that Act (enforcement) requires the taking of steps which would be rendered ineffective, or substantially ineffective, by works proposed to be carried out in exercise of the powers conferred by Part 1 of this Act, it shall not have effect or, as the case may be, shall cease to have effect;

(c) no steps may be taken in relation to the building under section 38(1) of that Act (execution of works specified in notice under section 34(1)) which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in sub-paragraph (b) above; and

(d) no works may be executed for the preservation of the building under section 49 of that Act (urgent works to preserve unoccupied listed buildings) which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in sub-paragraph (b) above.

(2) If a building included in a conservation area and not a listed building was not included in a conservation area immediately before the assessment date, section 66 of the Listed Buildings Act (control of demolition in conservation areas) shall not apply to the demolition of the building in exercise of the powers conferred by Part 1 of this Act.

(3) Anything which, by virtue of section 1(4) of the Listed Buildings Act (objects or structures fixed to, or within the curtilage of, a building), is treated as part of a building for the purposes of that Act shall be treated as part of the building for the purposes of this paragraph.

2 Section 53 of the Listed Buildings Act (acts causing or likely to result in damage to listed buildings) shall not apply to anything done in exercise of the powers conferred by Part 1 of this Act with respect to works.

3 In this schedule—

"the assessment date" means, in the case of a building within the area of—

(a) City of Edinburgh Council, 8th October 2004; and

(b) West Lothian Council, 20th January 2005;

"the Listed Buildings Act" means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c.9); and

"building" and "listed building" have the same meanings as in the Listed Buildings Act.

SCHEDULE 9
(introduced by section 50)

CODE OF CONSTRUCTION PRACTICE

1 Before commencing construction of the authorised works located in the area of a local planning authority the authorised undertaker shall secure that—

(a) the code of construction practice; and

(b) the draft of any local construction plan that the authorised undertaker proposes to implement in the area of the local planning authority concerned,

are submitted to that local planning authority for its written approval.

2 The local planning authority shall send a copy of every code or plan submitted pursuant to paragraph 1, and any amendment or replacement proposed by the authorised undertaker pursuant to paragraph 3, to SNH and SEPA and shall take account of any representations made to the local planning authority by either of those bodies.

3 The authorised undertaker may with the approval of the local planning authority amend or replace the code of construction practice or any local construction plan.

4 In approving the code of construction practice or any local construction plan, or any amendment or replacement submitted under this schedule, the local planning authority may require the authorised undertaker to make amendments to the code or plan or to the amendment or replacement as the case may be.

5 For the purpose of any appeal against a decision of a local planning authority under this schedule, an application for approval under paragraph 1 or 3 shall be deemed to be an application for planning permission made under section 32 of the 1997 Act.

6 In this schedule—

"SEPA" means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995 (c.25);

"SNH" means Scottish Natural Heritage established under section 1 of the Natural Heritage (Scotland) Act 1991 (c.28).

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