


# Edinburgh Tram (Line Two) Act 2006

2006 asp 6

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# Edinburgh Tram (Line Two) Act 2006

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**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 22nd March 2006 and received Royal Assent on 27th April 2006**

An Act of the Scottish Parliament to authorise the construction and operation of a tram line in Edinburgh following a western course from St Andrew Square, via Princes Street, Haymarket, Murrayfield and South Gyle to Edinburgh Airport and Newbridge; and for connected purposes.

## PART 1

WORKS

*Principal works powers*

### 1 Power to construct works

(1) The authorised undertaker may construct and maintain the scheduled works or any part of them, as specified in schedule 1.

(2) Subject to section 2 (Power to deviate), the scheduled works may only be constructed in the lines or situations shown on the Parliamentary plans and in accordance with the levels shown on the Parliamentary sections.

(3) Subject to subsection (7), the authorised undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the scheduled works, namely—

(a) stopping places;

(b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised tramway;

(c) works required for the strengthening, improvement, repair or reconstruction of any road;

(d) works for the strengthening, alteration or demolition of any building or structure;

(e) works to alter the position of any road furniture or apparatus, including mains, sewers, drains and cables and lights;

(f) works to alter the course of, or otherwise interfere with, rivers, streams or watercourses;

(g) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and

(h) facilities and works for the benefit or protection of land or premises affected by the authorised works.

(4) Subject to subsection (7), the authorised undertaker may carry out and maintain 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 scheduled works.

(5) The authorised undertaker may remove any works constructed by it pursuant to this Act which have been constructed as temporary works or which it no longer requires.

(6) Where the authorised undertaker lays down conduits for the accommodation of cables or other apparatus for the purposes of the authorised works or associated traffic control, it may provide in, or in connection with, such conduits accommodation for the apparatus of any other person, and manholes and other facilities for access to such accommodation, and may permit the use of such conduits and facilities on such terms and conditions as may be agreed between it and such other person.

(7) Subsections (3) and (4) shall only authorise the carrying out or maintenance of works—

(a) within the limits of deviation shown on the Parliamentary plans for the scheduled works; or

(b) on land specified in columns (1) and (2) of Parts 1 and 2 of schedule 6 for the purpose specified in relation to that land in column (3) of those Parts of that schedule (being land shown on the Parliamentary plans as lying within the limits of land to be acquired or used).

**2 Power to deviate**

(1) In constructing or maintaining any of 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) to any extent not exceeding 3 metres upwards, and

(ii) to any extent downwards.

(2) The authorised undertaker may in constructing or maintaining any of the authorised tramroads or authorised road tramways lay down—

(a) double lines of rails instead of single lines,

(b) single lines of rails instead of double lines,

(c) interlacing lines of rails instead of double or single lines, or

(d) double or single lines of rails instead of interlacing lines.

(3) The power in subsection (2) shall not be exercised in the case of any authorised road tramway without the consent of the road works authority, but such consent shall not be unreasonably withheld.

(4) The authorised undertaker may in constructing and maintaining any of the authorised tramroads provide within the limits of deviation for those tramroads such number of lines of rails and sidings as may be necessary or expedient.

### 3 Power to alter the layout of roads

(1) The authorised undertaker may alter the layout of any road specified in columns (1) and (2) of schedule 2 in the manner specified in relation to that road in column (3) of that schedule.

(2) Without prejudice to the specific power conferred by subsection (1) but subject to subsection (3), the authorised undertaker may for the purpose of constructing, maintaining or using any authorised road tramway alter the layout of the road along which the tramway is laid; and, without prejudice to the generality of the foregoing, the authorised undertaker may—

(a) increase the width of the carriageway of the road by reducing the width of any kerb, footpath, footway, cycle track or verge within the road,

(b) alter the level or reduce the width of any such kerb, footpath, footway, cycle track or verge,

(c) reduce the width of the carriageway of the road by forming a reserved area in the road as a stopping place for trams or by carrying out other works for that purpose,

(d) carry out works to the carriageway of the road for the purpose of deterring or preventing vehicles other than trams from passing along the tramway,

(e) carry out works for the provision or alteration of parking places and bus lay-bys, and

(f) make and maintain crossovers, sidings or passing places.

(3) The powers in subsection (2) shall not be exercised without the consent of the roads authority, but such consent shall not be unreasonably withheld.

(4) The alteration of the layout of a road under this section shall be deemed to be a determination of the right of passage along that road under section 1(1) (Powers and duties of local roads authorities) of the Roads (Scotland) Act 1984 (c.54).

### 4 Power to keep apparatus in roads

(1) The authorised undertaker may, for the purposes of or in connection with the construction, maintenance and use of any authorised road tramway, place and maintain in any road along which the tramway is laid any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this section—

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

(b) "electric line" has the meaning given by section 64(1) (Interpretation etc. of Part I) of the Electricity Act 1989 (c.29); and

(c) the reference to any work, equipment or apparatus in a road includes a reference to any work, equipment or apparatus under, over, along or upon the road.

**5 Power to execute road works**

(1) The authorised undertaker may, for the purposes of exercising the powers conferred by section 4 (Power to keep apparatus in roads) and the other provisions of this Act, enter upon so much of any road in which tramways are or are to be laid and any road having a junction with such a road and may—

(a) break up or open the road, or any sewer drain or tunnel under it, or tunnel or bore under the road;

(b) remove and use the soil or other materials in or under the road;

(c) place apparatus in the road;

(d) maintain or change the position of apparatus in the road; and

(e) execute any works required for or incidental to the exercise of those powers.

(2) This section is subject to paragraph 3 of schedule 9.

**6 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, permanently stop up each of the roads specified in column (1) and (2) of Parts 1 and 3 of schedule 3 and stop up each of the roads mentioned in columns (1) and (2) of Part 2 of that schedule to vehicular rights of access and egress, to the extent specified, by reference to the letters and numbers shown on the Parliamentary plans, in column (3) of Parts 1, 2 and 3 of that schedule.

(2) No road specified in columns (1) and (2) of Part 1 of schedule 3 (being a road to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this section until either—

(a) the new road to be substituted for it, and which is specified in relation to it by reference to the letters and numbers shown on the Parliamentary plans in column (4) of that Part of that schedule, has been completed to the reasonable satisfaction of the roads authority and is open for use; or

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

(3) No road specified in columns (1) to (3) of Part 3 of schedule 3 (being a road to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this section unless a condition specified in subsection (4) is satisfied in relation to all the relevant land; and for this purpose "relevant land" means any land which abuts on either side of the road to be stopped up.

(4) The condition referred to in subsection (3) is that—

(a) the authorised undertaker is in possession of the land,

(b) there is no right of access to the land from the road concerned,

(c) there is reasonably convenient access to the land otherwise than from the road concerned, or

(d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a road has been stopped up under this section—

(a) all rights of way (or in the case of a road specified in Part 2 of schedule 3 all vehicular rights of way) over or along it shall be extinguished, and

(b) the authorised undertaker may appropriate and use for the purposes of its undertaking so much of the site of the road as is bounded on both sides by land owned by the authorised undertaker.

(6) Any person who suffers loss by the extinguishment or suspension 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.

(7) This section is subject to paragraph 2 of schedule 9.

*Supplemental powers*

**7 Temporary stopping up of roads**

(1) The authorised undertaker, during and for the purposes of the execution of the authorised works, 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 use any road stopped up under the powers conferred by this section as a temporary working site.

(3) 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.

(4) Without prejudice to the generality of subsection (1), the authorised undertaker may exercise the powers conferred by this section in relation to the roads specified in columns (1) and (2) of schedule 4 to the extent specified, by reference to the letters and numbers shown on the Parliamentary plans, in column (3) of that schedule.

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

(a) in relation to any road specified as mentioned in subsection (4) without first consulting the road works authority, and

(b) in relation to any other road without the consent of the road works authority, but such consent shall not be unreasonably withheld.

(6) The provisions of the 1991 Act mentioned in subsection (7) and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a road by the authorised undertaker under the powers conferred by this section even where no road works are executed in that road.

(7) The provisions of the 1991 Act referred to in subsection (6) are—

(a) section 113 (Advance notice of certain works);

(b) section 114 (Notice of starting of works);

(c) section 118 (General duty of road works authority to co-ordinate works);

(d) section 128 (Works likely to affect other apparatus in the road);

(e) section 135 (Liability for cost of temporary traffic regulation);

(f) section 136 (Liability for cost of use of alternative route); and

(g) all other such provisions as apply for the purposes of the provisions mentioned above.

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

**8 Access to works**

The authorised undertaker may, for the purposes of the authorised works, form and lay out means of access or improve existing means of access in such location or locations within the limits of deviation for those works shown on the Parliamentary plans as may be approved by the roads authority, but such approval shall not be unreasonably withheld.

**9 Construction and maintenance of new or altered roads**

(1) Any public road to be constructed under this Act shall be completed to the reasonable satisfaction of the roads authority and shall, unless otherwise agreed, be maintained by and at the expense of the authorised undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the roads authority.

(2) Where a road is altered or diverted under this Act, the altered or diverted part of the road shall when completed to the reasonable satisfaction of the roads authority, unless otherwise agreed, be maintained by and at the expense of the authorised undertaker for a period of 24 months from its completion and at the expiry of that period by and at the expense of the road works authority.

(3) Subsections (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a road over or under any tramroad of the authorised undertaker.

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

(5) 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.

**10 Construction of bridges and tunnels**

Any bridge or tunnel to be constructed under this Act for carrying a road over or under a tramroad shall be constructed in accordance with plans and specifications approved by the roads authority, but such approval shall not be unreasonably withheld.

**11 Restoration of roads if tramway discontinued**

If the authorised undertaker permanently ceases to operate any of the authorised road tramways ("the discontinued tramway"), it shall as soon as reasonably practicable and unless otherwise agreed with the road works authority—

(a) remove from the road in which the discontinued tramway is laid the rails and any other works, equipment and apparatus that have become redundant, and

(b) restore, to the reasonable satisfaction of the road works authority, the portion of the road along which the discontinued tramway was laid.

**12 Agreements with roads and road works authorities**

(1) An authorised undertaker may enter into agreements with the roads authority or the road works authority with respect to—

(a) the construction of any new road (including any structure carrying the road over or under a tramroad) under the powers conferred by this Act,

(b) the maintenance of the structure of any bridge or tunnel carrying a road over or under a tramroad,

(c) any stopping up, alteration or diversion of a road under the powers conferred by this Act, or

(d) the execution in the road of any of the works referred to in section 5(1) (Power to execute road works).

(2) Such an agreement may, without prejudice to the generality of subsection (1)—

(a) delegate to the roads authority or the road works authority any function under this Act which relates to the road in question, and

(b) contain such terms as to payment and otherwise as the parties consider appropriate.

**13 Agreements with Network Rail and BRB (Residuary) Limited**

(1) The authorised undertaker may enter into agreements with Network Rail or BRB (Residuary) Limited for the transfer to the authorised undertaker of any or any part of the disused railways within or adjoining the limits of deviation of the authorised works, together with all lands, works and other property held in connection with those railways and all rights and obligations of Network Rail or BRB (Residuary) Limited in relation to those railways.

(2) Where an agreement is made for the transfer to the authorised undertaker of any disused railway belonging to Network Rail or BRB (Residuary) Limited under subsection (1), or the authorised undertaker otherwise purchases any such railway or sufficient rights therein, the authorised undertaker may adapt for use (including, where required, duplication of existing rails), maintain, use and work that railway as part of the tram system.

**14 Transfer of obligations arising from previous enactments**

(1) Except as may be otherwise provided in this Act, as from the coming into force of this Act, the authorised undertaker shall—

(a) be subject to all statutory provisions applicable to the former railway (but only insofar as the same are still subsisting and capable of having effect);

(b) to the exclusion of all other parties be entitled to the benefit of and to exercise all rights, powers and privileges relating to the former railway insofar as the same are still subsisting and capable of taking effect; and

(c) be subject to all statutory obligations relating to the former railway insofar as the same are still subsisting and capable of taking effect, with the intent that all other parties shall be released from all such obligations.

(2) In this section "former railway" means so much of any former railway as is situated within the limits of deviation and is in existence on the date of the coming into force of this Act.

**15 Level crossings**

(1) The authorised undertaker may construct the authorised tramways so as to carry them on the level across the roads specified in schedule 5.

(2) The authorised undertaker may provide, maintain and operate at or near any new level crossing such barriers or other protective equipment as Scottish Ministers may in writing approve.

(3) Any traffic sign placed pursuant to this section on or near a road to which the public has access shall be treated for the purposes of section 64(4) (General provisions as to traffic signs) of the 1984 Act as having been placed as provided by that Act.

(4) Without prejudice to the generality of section 3 (Power to alter the layout of roads), the authorised undertaker may in the exercise of the powers conferred by this section alter the level of any road specified in schedule 5.

(5) The roads authority may enter into agreements with the authorised undertaker with respect to the construction and maintenance of any new level crossing; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(6) In this section—

"barrier" includes gate;

"new level crossing" means the place at which an authorised tramroad crosses a road on the level under the powers conferred by this section; and

"protective equipment" includes lights, traffic signs (within the meaning of section 64(1) of the 1984 Act), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

**16 Attachment of equipment to buildings for purposes of works**

(1) Subject to the provisions of section 72 (Listed buildings and conservation areas) and the following provisions of this section, the authorised undertaker may affix to any building any brackets, cables, wires, insulators and other apparatus required in connection with the authorised works.

(2) The authorised undertaker shall not affix any apparatus to a building without the written consent of the owner; and such consent may be given subject to reasonable conditions but shall not be unreasonably withheld.

(3) But where—

(a) the authorised undertaker serves on the owner a notice requesting the owner's consent to the affixing of specified apparatus to the building, and

(b) the owner does not within a period of 28 days beginning with the date upon which the notice is served give consent unconditionally or give it subject to conditions or refuse it,

consent shall be deemed to have been given without any conditions.

(4) Where, in the opinion of the authorised undertaker, consent required under this section for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it may refer the matter by summary application to the sheriff and the decision of the sheriff on the matter shall be final.

(5) Where apparatus is affixed to a building under this section—

(a) the owner shall be entitled, where the removal of the apparatus is reasonably necessary during any reconstruction or repair of the building, on giving the authorised undertaker no less than 28 days' notice, to require the authorised undertaker, at the authorised undertaker's cost, to temporarily remove the apparatus,

(b) the authorised undertaker shall have the right as against any person having an interest in the building to maintain the apparatus.

(6) The authorised undertaker shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by subsections (1) and (5)(b); and any dispute as to a person's entitlement to compensation, or as to the amount of the compensation, shall be determined according to the 1963 Act.

(7) In this section—

"building" includes any structure and a bridge or aqueduct; and

"owner" means the heritable proprietor of the building.

**17 Discharge of water**

(1) The authorised undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may—

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

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

on any land within the limits of deviation or limits of land to be acquired or used.

(2) The authorised undertaker shall not discharge any water into 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.

(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.

(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) In this section—

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

**18 Safeguarding works to buildings**

(1) Subject to the following 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 lying within the limits of deviation as the authorised undertaker considers to be necessary or expedient.

(2) 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 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this section are to be exercised, the authorised undertaker may enter and survey any building falling within subsection (1) and any land belonging to it.

(4) For the purpose of carrying out safeguarding works under this section to a building the authorised undertaker may (subject to subsections (5) and (6))—

(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).

(5) Before exercising—

(a) a right under subsection (1) to carry out safeguarding works to a building,

(b) a right under subsection (3) to enter a building,

(c) a right under subsection (4)(a) to enter a building or land, or

(d) a right under subsection (4)(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 paragraph (a) or (c), specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under subsection (5)(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 referred to arbitration under section 79 (Arbitration).

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

(8) Where—

(a) safeguarding works are carried out under this section to a building, and

(b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within 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 works,

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

(9) Nothing in this section shall relieve the authorised undertaker from any liability to pay compensation under Schedule 3 to the 1963 Act.

(10) Any compensation payable under subsection (7) or (8) shall be determined, in case of dispute, under Part II of the 1963 Act.

(11) In this section—

"building" includes any structure or erection or any part of a building, structure or erection, and

"safeguarding works", in relation to a building, means—

(a) 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

(b) 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.

**19 Power to construct temporary tramways**

(1) The authorised undertaker may, if it considers it necessary in consequence of any road works executed or proposed to be executed in a road along which an authorised road tramway is constructed—

(a) remove or discontinue the operation of the authorised road tramway, and

(b) lay, maintain and operate in or near to that road a temporary tramway instead of the authorised road tramway.

(2) The powers conferred by this section may only be exercised with the consent of the roads authority but such consent shall not be unreasonably withheld.

(3) The provisions of section 58 (Traffic signs and priority) shall apply in relation to temporary tramways laid under this section as they apply in relation to authorised road tramways.

(4) In this section "road works" has the same meaning as in Part IV of the 1991 Act.

**20 Power to survey and investigate land**

(1) The authorised undertaker may for the purposes of this Act—

(a) survey or investigate any land within the limits of deviation or within the limits of land to be acquired or used;

(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 soil samples;

(c) without prejudice to the generality of paragraph (a), carry out archaeological investigations on the land;

(d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the works;

(e) place on, leave on and remove from the land apparatus for use in connection with exercise of any of the powers conferred by paragraphs (a) to (c); and

(f) enter on the land for the purpose of exercising the powers conferred by paragraphs (a) to (e).

(2) No land may be entered, or equipment placed or left on or removed from the land under subsection (1), unless—

(a) on the first occasion at least 7 days' notice, and

(b) on subsequent occasions at least 3 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 the authority to do so, and

(b) may bring such vehicles and equipment as are necessary to carry out the survey or investigation or to make trial holes.

(4) No trial holes 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) The authorised undertaker shall make compensation for any damage occasioned by the exercise of the powers conferred by this section to the owners and occupiers of the land, in case of dispute such compensation to be determined under the 1963 Act.

**21 Mode of construction and operation of tramway**

(1) The authorised tramway shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.

(2) The authorised road tramway and authorised tramroad shall be constructed on a nominal gauge of 1435 millimetres.

**22 Obstruction of construction of tramway**

Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## PART 2

LAND

*Principal acquisition powers*

### 23 Power to acquire land

(1) The authorised undertaker may acquire compulsorily—

(a) so much of the land shown on the Parliamentary plans within the limits of deviation for the authorised works shown on those plans and described in the book of reference as may be required for the purposes of the authorised works, and

(b) so much of the land specified in columns (1) and (2) of Parts 1 and 2 of schedule 6 (being land shown on the Parliamentary plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of those Parts of that schedule;

and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its tramway undertaking.

(2) This section is subject to sections 40 (Time limit for exercise of powers of acquisition), 24 (Powers to acquire new rights) and 26 (Temporary use of land for construction of works).

### 24 Powers to acquire new rights

(1) Subject to section 40 (Time limit for exercise of powers of acquisition), the authorised undertaker may compulsorily acquire such servitudes or other heritable or moveable rights over any land referred to in section 23(1)(a) or (b) (Power to acquire land) as may be required for any purpose for which that land may be acquired under that provision.

(2) Servitudes and other rights may be acquired by creating them as well as by acquiring servitudes and other rights already in existence in accordance with subsection (1).

(3) Where the authorised undertaker acquires any rights over land under this section, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) Section 90 (Parties not to be required to sell part of a house) of the 1845 Act shall not apply to any compulsory acquisition under this section.

(5) The provisions of the Lands Clauses Acts shall apply to rights over land acquired under this section as if they were lands within the meaning of those Acts.

### 25 Rights under or over roads

(1) The authorised undertaker may enter upon and appropriate so much of the subsoil of, or air-space over, any road shown on the Parliamentary plans and described in the book of reference as may be required for the purposes of the authorised works and may use the subsoil and air-space for those purposes or any other purpose connected with or ancillary to its tramway undertaking.

(2) The power under subsection (1) may be exercised in relation to a road without the authorised undertaker being required to acquire any part of the road or any servitude or other right in it.

(3) The authorised undertaker shall not be required to pay compensation for the exercise of the powers conferred by subsection (1) where the road is a public road; but where the road is not a public road, any person suffering loss by the exercise of that power shall be entitled to compensation.

(4) Subsections (2) and (3) 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.

(5) For the purposes of section 28 (Interpretation) 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.

**26 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 the land specified in columns (1) and (2) of schedule 7 (Land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that schedule relating to the authorised works specified in column (4) of that schedule,

(b) remove any buildings and vegetation from that land, and

(c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 28 days before entering upon and taking 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 or works specified in relation to that land in column (4) of schedule 7.

(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 compensation, shall be determined under the 1963 Act.

(7) Nothing in this section shall affect any liability to pay compensation in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under subsection (5).

(8) 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.

(9) In this section "building" includes any structure or any other erection.

**27 Temporary use of land for maintenance of works**

(1) The authorised undertaker may—

(a) enter upon and take temporary possession of any land within 20 metres of any of the authorised works if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it or securing the safe operation of that work,

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Subsection (1) shall not authorise the authorised undertaker to take temporary possession of—

(a) any house or garden belonging to a house, or

(b) any building (other than a house) if it is for the time being occupied.

(3) 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.

(4) The authorised undertaker may only remain in possession of land under this section for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this section, the authorised undertaker shall remove all works and restore the land to the reasonable satisfaction of the owners of the land.

(6) 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.

(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.

(8) Nothing in this section shall affect any liability to pay compensation in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under subsection (6).

(9) Where the authorised undertaker takes possession of any land under this section, it shall not be required to acquire the land or any interest in it.

(10) In this section—

"building" includes structure or other erection, and

any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

**28 Power as to acquisition and use of additional lands**

(1) In addition to the lands which the authorised undertaker is authorised to acquire by section 23 (Power to acquire land) of this Act, the authorised undertaker may acquire, by agreement, any lands required for the following purposes—

(a) providing for the relocation of population or industry from any lands within the limits of deviation;

(b) providing recreational land or allotments in substitution for any lands within the limits of deviation;

(c) forming junctions between the works or any part of them and a road or other way; and

(d) executing, improving or maintaining the works.

(2) The authorised undertaker may be authorised by Scottish Ministers to purchase compulsorily any lands for the purposes mentioned in subsection (1) and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42) shall apply in relation to any such compulsory purchase as if this section had been contained in a public general Act in force immediately before the commencement of that Act.

(3) The authorised undertaker may use any lands acquired by it in pursuance of the provisions of subsection (1) or (2), or any other land vested in it, for such purposes and for the purposes of section 1(3) (Power to construct works).

**29 Power to retain, sell, etc., lands**

Notwithstanding anything to the contrary contained in the 1845 Act, the authorised undertaker may retain, hold and use for such time as it thinks fit, or may from time to time sell, lease, excamb or otherwise dispose of any lands vested in or belonging to it for the purpose of the works, or that may be acquired under the provisions of this Act, on such terms, conditions, reservations and restrictions as regards its use (not inconsistent with any condition, restriction or obligation binding on the authorised undertaker and their successors in title) as the authorised undertaker may see fit.

**30 Application of the Crichel Down Rules**

In the event that the authorised undertaker compulsorily acquires land as authorised by section 23 (Power to acquire land) and that land is subsequently declared by the authorised undertaker to be surplus to the authorised undertaker's requirements, the authorised undertaker shall apply the rules set out in Scottish Development Department Circular 38 of 1992 ("Disposal of Surplus Government Land - The Crichel Down Rules") as may be amended or superseded from time to time.

*Compensation*

**31 Disregard of certain interests and improvements**

(1) In assessing the compensation (if any) 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 the land acquired from the person concerned or 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.

**32 Compensation in respect of depreciation in value of interest in land subject to a standard security**

(1) Where an interest in land is subject to a standard security—

(a) any compensation which is payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the standard security;

(b) a claim for the payment of any such compensation may be made by the heritable creditor under a standard security granted before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person; and

(c) any such compensation payable in respect of the interest in land subject to the standard security shall be paid to the heritable creditor or where there is more than one heritable creditor, to the first ranking heritable creditor, and shall in either case be treated by the heritable creditor as if it were received as proceeds of sale and applied in the order of priority specified in section 27 (Application of proceeds of sale) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35).

(2) In this section "standard security" includes a bond and disposition in security and any other real right in the nature of a security.

**33 Set-off against betterment**

(1) In determining the amount of compensation or purchase money payable to any person in respect of an interest in land—

(a) acquired under this Act in a case where—

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

(ii) the value of that 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; or

(b) injuriously affected by construction works authorised by this Act where the value of that land is also enhanced by reason of the works authorised by this Act or any of them,

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

(2) In this section any reduction in expenditure that would have been required in order to comply with an obligation under any Act with respect to any land is an enhancement in the value of an interest in the land.

*Supplemental powers*

**34 Acquisition of part of certain properties**

(1) This section shall apply instead of section 90 (Parties not to be required to sell part of a house) of the 1845 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 80 (Incorporation of enactments)) in respect of—

(i) land forming only part of a house, building or factory, or

(ii) 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, the question of whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the authorised undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine 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 and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) 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 and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine 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, whether or not the additional land is land which the authorised undertaker is authorised to acquire compulsorily under this Act.

(8) If the authorised undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and 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 whether or not the whole of that land is land which the authorised undertaker is authorised to acquire compulsorily under this Act.

(9) 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 that that specified in the notice, the authorised undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay to the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in the case of dispute by the tribunal.

(10) 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.

### 35 Persons under a disability may grant servitudes, etc.

Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may, if they think fit, subject to the provisions of those Acts and this Act, grant to the authorised undertaker any servitude, right or privilege (not being a servitude, right or privilege of water in which persons other than the grantors have an interest) required for any of the purposes of this Act in, over or affecting any such lands.

### 36 Extinction or suspension of private rights of way

(1) Subject to the provisions of this section, 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 37 (Power of entry on lands compulsorily acquired),

whichever is sooner.

(2) Subject to the provisions of this section, all private rights of way over land owned by the authorised undertaker which is within the limits of land to be acquired or used shown on the Parliamentary plans and is required for the purposes of this Act, shall be extinguished on the appropriation of the land for any of those purposes by the authorised undertaker.

(3) Subject to the provisions of this section, all private rights of way over land of which the authorised undertaker takes temporary possession under this Act shall be suspended and unenforceable for as long as the authorised undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension 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) This section does not apply in relation to any right of way to which section 224 or 225 (Extinguishment of rights of statutory undertakers, etc.) of the 1997 Act or paragraph 2 of schedule 9 applies.

(6) Subsections (1), (2) and (3) shall have effect subject to—

(a) any notice given by the authorised undertaker before the completion of the acquisition of the land, the authorised undertaker's appropriation of it, the authorised undertaker's entry onto it, or the authorised undertaker's taking temporary possession of it, as the case may be, that any or all of those subsections shall not apply to any right of way specified in the notice; and

(b) any agreement made (whether before or after any of the events mentioned in paragraph (a) and before or after the coming into force of this Act) between the authorised undertaker and the person in or to whom the right of way in question is vested or belongs.

**37 Power of entry on lands compulsorily acquired**

Subject to the provisions of this Act, where the authorised undertaker is authorised to purchase land compulsorily then at any time after notice to treat has been served, it may, after giving the owner and occupier of the land not less than three months' notice in writing, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with the provisions of sections 83 to 89 of the 1845 Act, but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

**38 Correction of errors in Parliamentary plans and book of reference**

(1) If the Parliamentary plans or the book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the authorised undertaker, after giving not less than 10 days' notice to the owner, lessee or occupier of the land in question, may apply to the sheriff for the correction of such inaccuracy.

(2) Any person to whom a notice has been given under subsection (1) may, within the period of 10 days from the giving of the notice, give to the sheriff and the authorised undertaker a counter-notice in writing that the person disputes that there is an inaccuracy which may be amended under this section.

(3) If in relation to any application under this section which has not been the subject of a counter-notice it appears to the sheriff that the inaccuracy arose from mistake, the sheriff shall certify the fact accordingly and shall in such certificate state in what respect any matter is misstated or wrongly described.

(4) If any counter-notice is given under subsection (2), the sheriff shall before making any decision on the application cause a hearing to be held.

(5) The certificate shall be deposited in the office of the Clerk of the Parliament, and a copy with the sheriff clerk, with the Partner Libraries with whom the book of reference has been deposited and with the solicitor to the authorised undertaker, from which time the Parliamentary plans and the book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the authorised undertaker to take the land or, as the case may be, a right over the land and execute the works in accordance with the certificate.

(6) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

(7) An application under subsection (1) may only be made in respect of land identified in the book of reference and on the Parliamentary plans.

(8) In this section "Partner Libraries" means the following public libraries: Edinburgh Central Library, Portobello Library, Leith Library, Wester Hailes Library, Morningside Library and Blackhall Library.

**39 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.

**40 Time limit for exercise of powers of acquisition**

(1) The powers of land acquisition in sections 23 (Power to acquire land) and 24 (Powers to acquire new rights) shall cease at the end of the period of five years beginning on the day of the coming into force of this Act.

(2) Subsection (1) shall not prevent the authorised undertaker remaining in possession of land under section 26 (Temporary use of land for construction of works) after that date, if the land was entered and possession of it was taken on or before that date.

**41 Extension of time**

On the application of the authorised undertaker, Scottish Ministers may, by order, extend, or further extend, the period referred to in section 40 (Time limit for exercise of powers of acquisition) provided that—

(a) such application is made prior to the expiry of said period or any extension of that said period; and

(b) the period referred to in section 40, and any extension to the said period, cannot exceed fifteen years in total.

**42 General vesting declarations**

(1) Section 195 (General vesting declarations) and Schedule 15 of the 1997 Act shall apply to this Act as if it were a compulsory purchase order.

(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.

## PART 3

PENALTY FARES

### 43 Interpretation for Part 3

(1) In this Part, unless the context otherwise requires—

"authorised person" means, in relation to any purpose, a person authorised for that purpose by the authorised undertaker;

"fare ticket" means a ticket authorising the person in respect of whom it is issued to travel on a tram;

"general travel authority" means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a tram;

"passenger" means a person travelling on a tram;

"penalty fare" means a penalty fare payable pursuant to section 45 (Penalty fares);

"the penalty fare provisions" means sections 45 (Penalty fares) to 48 (Notice of penalty fare provisions); and

"stop" means a regular stopping place on the authorised tramway at which passengers board or alight from trams.

(2) Any reference in this Part to a passenger producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other document produced by that passenger at the same time, is valid for the journey made by the passenger.

(3) For the purposes of subsection (2), a passenger shall be taken to have made a journey ending at the next scheduled stop.

### 44 Operation of Part 3

Scottish Ministers may by order provide that the penalty fare provisions shall have effect on and after such day as may be specified in the order.

### 45 Penalty fares

(1) If a passenger, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, that passenger shall be liable to pay a penalty fare if required to do so by an authorised person.

(2) A passenger shall not be liable to pay a penalty fare if at the stop where, and the time when, the passenger boarded the tram—

(a) in the case of a passenger who produces a fare ticket which is invalid only by reason of its not bearing the imprint required by the authorised undertaker at that time, there were no facilities for making that imprint on fare tickets; or

(b) in the case of any other passenger, there were no facilities for the sale of the necessary fare ticket for the journey made by the passenger.

(3) Any penalty fare charged in accordance with the penalty fare provisions shall be payable within 21 days commencing on the day on which such penalty fare is charged.

(4) The amount of any penalty fare charged in accordance with the penalty fare provisions and not paid within 21 days may be recovered from the person as a civil debt.

(5) Subsections (6) and (7) have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this section so far as concerns the question of whether the facts of the case fall within subsection (2).

(6) In any case where the passenger has provided the authorised undertaker with a relevant statement in due time it shall be for the authorised undertaker to show that the facts of the case do not fall within subsection (2) and in any other case it shall be for the passenger to show that the facts of the case fall within that provision.

(7) For the purposes of subsection (6)—

(a) a relevant statement is one giving an explanation of the passenger's failure to produce a fare ticket or general travel authority, together with any information as to the passenger's journey relevant to that explanation (including, in every case, an indication of the stop where the passenger boarded the tram); and

(b) a statement is provided in due time if it is provided when the passenger is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey was completed.

**46 Amount of penalty fare**

(1) A penalty fare shall be twenty five times the maximum single adult cash fare.

(2) In this section "maximum single adult cash fare" means the highest value cash fare for any single adult journey on the tram network.

**47 Document to be issued in connection with penalty fare requirement**

(1) An authorised person who requires a passenger to pay a penalty fare shall give the passenger either a receipt for the payment of the amount of the penalty fare (where such payment is made to the authorised person) or a written notice setting out the amount of the penalty fare, the address to which payment may be made and a statement that payment must be made within 21 days of the person's receipt of that notice.

(2) A receipt or notice given under subsection (1) shall specify the passenger's destination on the tram on which the passenger is travelling when required to pay the penalty fare, and shall operate as an authority for the passenger to complete the journey to that destination.

(3) For the purposes of subsection (2), the passenger's destination shall (unless only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any such statement, such destination as may be specified by the authorised person.

**48 Notice of penalty fare provisions**

(1) It shall be the duty of the authorised undertaker to secure that a warning notice meeting the requirements of subsection (2) is posted—

(a) at every stop, in such a position as to be readily visible to prospective passengers; and

(b) in every tram on which the penalty fare provisions have effect, in such a position as to be readily visible to passengers travelling on that tram.

(2) A warning notice posted by virtue of subsection (1) shall (however expressed) indicate the circumstances (as provided in section 45 (Penalty fares)) in which passengers may be liable to pay a penalty fare and shall state the amount of the penalty fare.

**49 Supplementary provisions**

(1) A passenger who is required to pay a penalty fare shall, unless the passenger pays immediately, and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires the passenger to do so, the name and address of the passenger; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where an authorised person requires any passenger to do anything pursuant to any provision of this Act, the authorised person shall, if so requested by the passenger concerned, produce to that passenger a duly authenticated document showing that person's authority, and a requirement by an authorised person shall be of no effect if, as respects that requirement, the authorised person fails to comply with this subsection.

**50 Exclusion of double liability**

(1) Where a passenger has become liable to pay a penalty fare in respect of any journey (referred to in this section as "the relevant journey"), no proceedings may be brought against such a passenger for any of the offences mentioned in subsection (2) before the end of the period mentioned in section 45(3) (Penalty fares), and no such proceedings may be brought after the end of that period if—

(a) the passenger has paid the penalty fare to the authorised undertaker before the end of that period; or

(b) an action has been brought against the passenger for the recovery of that fare.

(2) The offences mentioned in subsection (1) are—

(a) any offence under any byelaws made by the authorised undertaker involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey; and

(b) any offence under section 25(3) (Regulation of the conduct of passengers) of the Public Passenger Vehicles Act 1981 (c.14) of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section by failing to pay the fare properly payable for the relevant journey or any part of it.

(3) If proceedings are brought against any such passenger for any such offence the liability to pay the penalty fare shall cease, and if it has been paid, the authorised undertaker shall be liable to repay to the passenger an amount equal to the amount of that fare.

## PART 4

OPERATION OF AUTHORISED TRAMWAY

### 51 Power to operate and use authorised tramway

(1) The authorised undertaker may operate and use the authorised tramway and the other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to subsection (4) and to section 68 (Powers of disposal, agreements for operation etc.), the authorised undertaker shall, for the purpose of operating the tramway, have the exclusive right—

(a) to use the rails or other guidance, foundations, cables, masts, overhead wires and other apparatus used for the operation of the tramway, and

(b) to occupy any part of the road in which that apparatus is situated.

(3) Any person who, without the consent of the authorised undertaker or other reasonable excuse, uses the apparatus mentioned in subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Nothing in this section shall restrict the exercise of any public right of way over any part of a road in which apparatus is situated in pursuance of subsection (2) except to the extent that the exercise of the right is constrained by the presence of the apparatus.

### 52 Power to charge fares

The authorised undertaker may demand, take and recover or waive such charges for carrying passengers or goods on the authorised tramway, or for any other services or facilities provided in connection with the operation of the authorised tramway, as it thinks fit.

### 53 Disapplication of duties respecting provision of transport services

Section 63(7) (Functions of local councils with respect to passenger transport in areas other than passenger transport areas) of the Transport Act 1985 (c.67) shall not apply to the Council in respect of the operation of the authorised tramway.

### 54 Concessionary and integrated travel

(1) Sections 93 to 101 and 112 of the Transport Act 1985 (which make provision for travel concession schemes) shall apply to the provision of tram services on the authorised tramway, notwithstanding that such services may not be eligible services as defined in section 94(4) of that Act.

(2) Tram services on the authorised tramway shall be local services for the purposes of sections 28 and 29 of the Transport (Scotland) Act 2001 (asp 2) (which make provision for integrated ticketing arrangements or schemes).

**55 Obstruction to operation**

(1) Any person who, without reasonable excuse, intentionally places any obstruction on any part of the tram system or otherwise obstructs a tram shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person places any obstruction on any part of the tram system or otherwise obstructs the tram, the authorised undertaker shall have the power to remove such obstruction forthwith.

(3) If anything removed by the authorised undertaker under subsection (2) is so marked as to be readily identifiable as the property of any person, the authorised undertaker shall within one month of its coming into its custody give notice, as required by subsection (7), to that person and, if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice, it shall at the end of that period vest in the authorised undertaker.

(4) If anything removed by the authorised undertaker under subsection (2) is not marked as to be readily identifiable as the property of any person, and is not within three months of coming into the custody of the authorised undertaker proved to the reasonable satisfaction of the authorised undertaker to belong to any person, it shall vest in the authorised undertaker from that time.

(5) The authorised undertaker may at such a time and in such manner as it thinks fit dispose of anything referred to in subsection (4) which is of a perishable nature or the custody of which involves unreasonable expense notwithstanding that it has not vested in the authorised undertaker under this section, and, if it is sold, the proceeds of sale—

(a) shall be paid to any person who, within three months from the time when the thing came into the custody of the authorised undertaker proves to the reasonable satisfaction of the authorised undertaker that that person was the owner of the thing at that time; or

(b) if within the said period no person proves ownership at that time, shall vest in the authorised undertaker.

(6) If anything removed under this section—

(a) is sold by the authorised undertaker and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred by it in the exercise of its powers of removal; or

(b) is unsaleable,

the authorised undertaker may recover the deficiency or the whole of the expenses, as the case may be, from the person who placed the obstruction.

(7) A notice given under subsection (3) shall specify the thing removed and state that, upon proof of ownership to the reasonable satisfaction of the authorised undertaker, possession may be retaken at a place named in the notice within the time specified in the notice, being not less than 14 days after the notice is served.

**56 Removal of obstructions**

(1) If any obstruction is caused to trams using the authorised tramway by a vehicle waiting, loading, unloading or breaking down on any part of the tramway, the person in charge of the vehicle shall forthwith remove it and if such person fails to do so the authorised undertaker may take all reasonable steps to remove the obstruction and may recover the expenses reasonably incurred in doing so from—

(a) any person by whom the vehicle was put or left so as to become an obstruction to trams, or

(b) any person who was the owner of the vehicle at that time unless such person shows that at that time the person was not concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to trams using the authorised tramway by a load falling on the tramway from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the tramway, and if such person fails to do so, the authorised undertaker may take all reasonable steps to remove the load and may recover the expenses reasonably incurred in doing so from—

(a) any person who was in charge of the vehicle at the time when the load fell from it, or

(b) any person who was the owner of the vehicle at that time unless such person shows that at that time the person was not concerned in or aware of the vehicle being in the place at which the load fell from it.

(3) For the purposes of this section the owner of a vehicle shall be taken to be the person by whom the vehicle is kept, and in determining for those purposes who was the owner of a vehicle at any time, it shall be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicles (Excise and Registration) Act 1994 (c.22).

**57 Prevention or restriction of running of tram**

(1) Except for the purposes of the holding of the events listed in schedule 8, the Council, when considering whether to make an order under—

(a) section 14(1) (Temporary prohibition or restriction on roads) of the 1984 Act for the reason given in section 14(1)(b) of that Act;

(b) section 16A(2) (Prohibition or restriction on roads in connection with certain events) of the 1984 Act;

(c) section 63 (Functions of regional and islands councils in relation to processions) of the Civic Government (Scotland) Act 1982 (c.45); or

(d) section 62(1) (Temporary prohibition or restriction of traffic, etc. on roads for reasons of public safety or convenience) of the Roads (Scotland) Act 1984 (c.54),

for a march, procession or other event along or across the route taken by the tram, must carry out the steps in subsection (2) in addition to any steps specified in the Act in question.

(2) The steps referred to in subsection (1) are that the Council—

(a) consult the authorised undertaker, and

(b) have regard to the safe, efficient and economic operation of the tram.

**58 Traffic signs and priority**

(1) The authorised undertaker may, for the purposes of, or in connection with the operation of, the authorised tramway, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) (General provisions as to traffic signs) of the 1984 Act or of a character authorised by the Secretary of State on any road in which the authorised tramway is laid or which gives access to such a road.

(2) The authorised undertaker—

(a) shall consult with the traffic authority as to the placing of signs; and

(b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 (Powers and duties of highway authorities as to the placing of traffic signs) of the 1984 Act, shall enter into arrangements with the traffic authority for the signs to be placed and maintained by the traffic authority.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs shall include a power to give directions to the authorised undertaker as to traffic signs under this section; and, accordingly, the powers conferred by subsection (1) shall be exercisable subject to and in conformity with any directions given under the said section 65.

(4) The traffic authority may make provision for trams to take priority over other means of transport at any junction of a road and a tramroad or road tramway.

(5) Trams shall be taken to be public service vehicles for the purposes of section 122(2)(c) (Exercise of functions by local authorities) of the 1984 Act.

(6) Expressions used in this section and in the 1984 Act shall have the same meaning in this section as in that Act.

**59 Power to lop trees overhanging the tramway**

(1) The authorised undertaker may fell or lop any tree or shrub near any part of the authorised tramway, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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

(b) from constituting a danger to passengers or other persons using the tramway.

(2) In exercising the powers in subsection (1), the authorised undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) The following shall not apply to the exercise of the powers conferred by subsection (1)—

(a) any prohibition contained in an order made under section 160 (Power to make tree preservation orders) of the 1997 Act; and

(b) section 172(1) (Preservation of trees in conservation areas) of that Act.

(4) Any dispute as to a person's entitlement to compensation under subsection (2) or as to the amount of the compensation, shall be determined under the 1963 Act.

**60 Trespass on tramroads**

(1) Any person who—

(a) trespasses on any authorised tramroad, or

(b) trespasses upon any land of the authorised undertaker in dangerous proximity to the authorised tramroads or to any electrical or other apparatus used for or in connection with the operation of the authorised tramroads,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) No person shall be convicted of an offence under this section unless it is shown that a notice warning the public not to trespass upon the tramroads was clearly exhibited and maintained at the station or other stopping place on the authorised tramway nearest the place where the offence is alleged to have been committed.

**61 Power to make byelaws**

(1) The authorised undertaker may make byelaws regulating the use and operation of, and travel on, the authorised tramway, the maintenance of order on the authorised tramway and on tramway premises or other facilities provided in connection with the authorised tramway and the conduct of all persons, including employees of the authorised undertaker, while on the authorised tramway or on tramway premises.

(2) Without prejudice to the generality of subsection (1), byelaws under this section may make provision—

(a) with respect to tickets issued for travel on the authorised tramway, the payment of fares and charges and the evasion of payment of fares and charges;

(b) with respect to interference with, or obstruction of, the operation of the authorised tramway or other facilities provided in connection with the authorised tramway;

(c) with respect to access to and the carriage, use or consumption of anything on tramway premises;

(d) with respect to the prevention of nuisances on tramway premises;

(e) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within tramway premises;

(f) for the safe custody and redelivery or disposal of any property accidentally left on tramway premises and for fixing the charges made in respect of any such property;

(g) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the authorised tramway or on tramway premises; and

(h) for the regulation of interaction between the maintenance of buildings adjacent to the tramway and the safe operation of the tramway.

(3) Byelaws under this section may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of subsection (3), if the contravention of, or failure to comply with, any byelaw under this section is attended with danger to the public, or hindrance to the authorised

undertaker in the operation of the authorised tramway, the authorised undertaker may summarily take action to obviate or remove the danger or hindrance.

(5) Byelaws under this section shall not come into operation until they have been confirmed by Scottish Ministers.

(6) At least 28 days before applying for any byelaws to be confirmed under this section, the authorised undertaker shall publish in such manner as may be approved by Scottish Ministers a notice of its intention to apply for the byelaws to be confirmed and of the place at which and the time during which a copy of the byelaws will be open to public inspection; and any person affected by any of the byelaws may make representations on them to Scottish Ministers within a period specified in the notice, being a period of not less than 28 days.

(7) The period for making representations specified in the notice published under subsection (6) must expire before an application is made under this section for byelaws to be confirmed, and during that period a copy of the byelaws shall be kept at the principal office of the authorised undertaker and shall at all reasonable hours be open to public inspection without payment.

(8) The authorised undertaker shall, at the request of any person, supply such a person with a copy of any such byelaws on payment of such reasonable sum as the authorised undertaker may determine.

(9) Scottish Ministers may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this section for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws shall come into operation, and if no date is so fixed the byelaws shall come into operation after the expiry of 28 days after the date on which they were confirmed.

(10) As soon as is practical following the confirmation of any byelaws submitted in accordance with subsection (9), the authorised undertaker shall publish, at least once in each of two successive weeks, in one or more newspapers circulating in the areas to which the byelaws relate, a notice stating the general effect of the byelaws and the date that the byelaws come into operation.

(11) Scottish Ministers may charge the authorised undertaker such fees in respect of any byelaws submitted for confirmation under this section as they may consider appropriate for the purpose of defraying any administrative expenses incurred by them in connection with such confirmation.

(12) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the authorised undertaker, and shall at all reasonable hours be open to public inspection without payment, and be available on the authorised undertaker's website; and the authorised undertaker shall, at the request of any person, supply that person with a copy of any such byelaws on payment of such reasonable sum as the authorised undertaker shall determine.

(13) The production of a printed copy of byelaws confirmed under this section on which is endorsed a certificate purporting to be signed by a person duly authorised by the authorised undertaker stating—

(a) that the byelaws were made by the authorised undertaker;

(b) that the copy is a true copy of the byelaws;

(c) that on a specified date the byelaws were confirmed by Scottish Ministers; and

(d) the date when the byelaws came into operation,

shall be evidence at first sight of the facts stated in the certificate.

### 62 Power to contract for police services

(1) Agreements may be made—

(a) between the authorised undertaker and the chief officer of police of any police force and the police authority; or

(b) between the authorised undertaker and the British Transport Police Authority,

for making available to the authorised undertaker for the purposes of the operation of its tramway undertaking the services of members of the police force or, as the case may be, members of the British Transport Police Force.

(2) Subject to subsection (3), any such agreement may be made on such terms as to payment or otherwise, and subject to such conditions, as the parties to the agreement think fit.

(3) Any agreement made under subsection (1)(b) with the British Transport Police Authority shall not be inconsistent with the provisions of sections 33 to 35 of the Railways and Transport Safety Act 2003 (c.20) or any order made thereunder.

(4) Where such an agreement has been made between the authorised undertaker and the British Transport Police Authority, members of the British Transport Police Force may act, in accordance with the terms of the agreement, as constables in, or in the vicinity of any tramway premises or other facilities used in connection with the authorised tramway notwithstanding the provisions of the Railways and Transport Safety Act 2003 (c.20) (which grants them jurisdiction in relation to railways and railway premises but not in relation to tramways or tramway premises in Scotland).

(5) In this section—

"chief officer of police", "police authority" and "police force" have the same meaning as in the Police (Scotland) Act 1967 (c.77);

the "British Transport Police Authority" means the police authority established under section 18 of the Railways and Transport Safety Act 2003 (c.20) and organised under Schedule 4 to that Act; and

the "British Transport Police Force" means the force established under section 20 of the Railways and Transport Safety Act 2003 (c.20).

## PART 5

MISCELLANEOUS AND GENERAL

### 63 Insulation against noise

(1) The authorised undertaker may, after consulting the Council, make a scheme providing for the making of grants towards the cost of insulating buildings, or such classes of buildings as the authorised undertaker may think fit, or any parts of such buildings, against noise caused, or expected to be caused, by the use of the tram system.

(2) The authorised undertaker may make grants in accordance with a scheme under subsection (1).

(3) A scheme under subsection (1)—

(a) shall specify the areas in respect of which grants are payable;

(b) shall make provision as to the persons to whom, the expenditure in respect of which, and the rate at which, the grants are to be paid;

(c) may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme;

(d) shall specify a date, not less than two years after first publication of the notice referred to in subsection (5), for the submission of a valid application for a grant; and

(e) shall require the authorised undertaker, in any case where application for a grant is refused, to give at the request of the applicant a written statement of its reasons for the refusal.

(4) A scheme under subsection (1) may make different provisions with respect to different areas or different circumstances and may be varied or revoked by a subsequent scheme under subsection (1) without affecting grants already made.

(5) As soon as possible after the making of a scheme under this section the authorised undertaker shall publish, once at least in each of two successive weeks, in one or more newspapers circulating in the areas to which the scheme relates, a notice stating the general effect of the scheme and specifying a place or places in each such area where a copy of the scheme may be inspected by any person free of charge at all reasonable hours.

(6) A photostatic or other reproduction certified, by a person authorised by the authorised undertaker for that purpose, to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing a notice mentioned in subsection (5) shall be evidence of the publication of the notice and of the date of publication.

**64 Orders for insulating new buildings**

(1) Where the authorised undertaker has made a scheme under section 63 (Insulation against noise) in respect of any area or areas, it may apply to Scottish Ministers for an order requiring provision for insulation against noise to be made in any building of a class to which the scheme applies which is erected after a date specified in the order, or in any extension of, or alteration to, any building of such class made after that date.

(2) The order shall define by reference to a map the areas to which it applies, which may comprise the whole or part of any areas to which the scheme relates.

(3) Application for an order under this section shall be accompanied by a draft of the order and a map defining the areas to which it relates.

(4) Before making an application for an order under this section the authorised undertaker shall publish, once at least in each of two successive weeks, in one or more newspapers circulating in the areas to which the draft order applies, a notice—

(a) stating the general effect of the intended order;

(b) specifying a place in the said areas where a copy of the draft order and of the relevant map may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice; and

(c) stating that within that period any person may, by notice to Scottish Ministers, object to the application.

(5) Any person claiming to be affected by the application may object to it by sending notice of the objection, stating the grounds of objection, to Scottish Ministers within the period specified in the notice and a copy of the notice of objection to the authorised undertaker.

(6) If any objection is duly made by any person appearing to Scottish Ministers to be affected by the application and is not withdrawn, then they shall cause a local inquiry to be held into the proposed order and shall consider the report of the person who held the inquiry before making an order under this section.

(7) No earlier than 28 days after the date of first publication of the notice specified in subsection (4), and following consideration of any report required by subsection (6), Scottish Ministers may make the order in the terms of the draft order or in those terms as modified in such manner as they think fit, or may refuse to make the order.

(8) If Scottish Ministers make an order under this section the authorised undertaker shall publish notice of the making, and of the effect, of the order in one or more newspapers circulating in the areas to which the order relates.

(9) Where an application is made to a local authority under the Building (Scotland) Act 1959 (c.23) for a warrant for the erection, extension or alteration of a building in an area to which an order under this section relates, the local authority shall, notwithstanding anything in that Act or regulations as to building standards made under it, refuse to grant the warrant unless it is shown to them—

(a) that satisfactory provision will be made for insulating the building (or, as the case may be, the extension or alteration of the building) against noise; or

(b) that in the case of an extension or alteration no such insulation is necessary.

(10) Scottish Ministers may cause such local inquiries to be held as they may consider necessary for the purpose of any of their functions under this section.

**65 Repeal of sections 63 and 64**

(1) If it appears to Scottish Ministers that, as a result of the coming into force of any enactment after the date that this Act comes into force, it is appropriate that section 63 (Insulation against noise) and section 64 (Orders for insulating new buildings) should be repealed, they may make an order repealing those sections.

(2) Subsection (10) of section 64 shall apply to the functions of Scottish Ministers under this section as it applies to their functions under that section.

(3) An order under this section shall not be made except on application by the authorised undertaker.

**66 Compliance with Code of Construction Practice and Noise and Vibration Policy**

(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 practice as may from time to time be amended or superseded and any relevant local construction plan; and

(b) the policy as may from time to time be amended or superseded is applied to the use and operation of the authorised works and in particular any scheme made under section 63 of this Act is drawn up in accordance with the policy.

(2) Neither the code of practice nor the policy shall be amended or superseded so as to reduce the standards of mitigation and protection contained in them.

(3) In this section—

"code of practice" means the Code of Construction Practice dated 17 May 2005;

"local construction plan" means a local construction plan 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;

"policy" means the Noise and Vibration Policy dated November 2005.

**67 Mitigation of environmental impacts**

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

(a) that the environmental impacts of the construction or operation of the authorised works are not worse than the residual impacts identified in the environmental statement; and

(b) that—

(i) the additional environmental mitigation measures identified in undertakings given to objectors to the Bill for this Act or to the Edinburgh Tram (Line Two) Bill Committee during the Consideration Stage of the Bill for this Act are carried out; or

(ii) the environmental impacts of the construction or operation of the authorised works 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, as amended by the supplementary environmental statement submitted to the Parliament in June 2005;

"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.

**68 Powers of disposal, agreements for operation, etc.**

(1) The authorised undertaker may sell, lease, excamb, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection with them or the right to operate or maintain the authorised tramway under this Act.

(2) Without prejudice to the generality of subsection (1), the authorised undertaker may enter into and carry into effect agreements with respect to all or any part or parts of the authorised works, authorised tramway and tramway premises, concerning—

(a) their construction, maintenance, use and operation, by any other person,

(b) other matters incidental or subsidiary to or consequential on them, and

(c) the defraying of, or the making of contributions towards, the cost of (a) or (b) by the authorised undertaker or any other person.

(3) Any agreement under subsection (2) may provide for the exercise of the powers of the authorised undertaker in respect of the authorised works, authorised tramway and tramway premises or any part of them by any person, and for the transfer to any person of the authorised works, authorised tramway and tramway premises or any part of them together with the rights and obligations of the authorised undertaker in relation to them.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, excambion, charge or disposal under subsection (1), or any agreement under subsection (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Act if those powers were exercised by the authorised undertaker.

(5) Within 21 days of the completion of any agreement entered into by the authorised undertaker under subsection (2), the authorised undertaker 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.

**69 Application of landlord and tenant law**

(1) This section applies to any agreement for leasing to any person the whole or any part of the authorised tramway or the right to operate it and any agreement entered into by the authorised undertaker with any person for the construction, maintenance, use or operation of the authorised tramway, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this section applies.

(3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted to be done on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

**70 Trams deemed public service vehicles**

(1) On such day as may be appointed under subsection (2), regulations made, or having effect as if made, under section 24, 25, 26 or 60(1)(j) or (k) (which provide for the regulation of drivers, conductors, inspectors, the control and number of passengers, carriage of luggage and goods and left luggage) of the Public Passenger Vehicles Act 1981 (c.14) shall have effect as if trams operating on the authorised tramway were public service vehicles within the meaning of the Transport Act 1985 (c.67).

(2) The authorised undertaker may by resolution appoint a day for the purpose of any regulation mentioned in subsection (1), the day so appointed being fixed in accordance with subsection (3).

(3) The authorised undertaker shall publish in a newspaper circulating in its area, notice—

(a) of the passing of any such resolution and of the day fixed thereby; and

(b) of the general effect of the regulations for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of publication of the notice.

(4) A photostatic or other reproduction certified, by a person authorised by the authorised undertaker for that purpose, to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing the notice mentioned in subsection (3) shall be evidence of the publication of the notice and of the date of publication.

**71 Statutory undertakers, etc.**

The provisions of schedule 9 shall have effect.

**72 Listed buildings and conservation areas**

(1) If a listed building was such a building at the coming into force of this Act and is specified in columns (1) and (2) of Part 1 of schedule 10—

(a) section 6 (Restriction on works affecting listed buildings) of the 1997 Act shall not apply to works carried out to such a building under the provisions of this Act;

(b) to the extent that a notice issued in relation to the building under section 34(1) (Power to issue listed building enforcement notice) of the 1997 Act 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 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) (Execution of works required by listed building enforcement notice) of the 1997 Act which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in paragraph (b); and

(d) no works may be executed for the preservation of the building under section 49 (Urgent works to preserve unoccupied listed buildings) of the 1997 Act which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in paragraph (b).

(2) If a listed building was such a building at the coming into force of this Act and is not specified in Part 2 of schedule 10—

(a) section 6 of the 1997 Act shall not apply to works carried out to such a building under the provisions of section 16 (Attachment of equipment to buildings for purposes of works);

(b) to the extent that a notice issued in relation to the building under section 34(1) of the 1997 Act 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 section 16, 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 the 1997 Act which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in paragraph (b) of this subsection; and

(d) no works may be executed for the preservation of the building under section 49 of the 1997 Act which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in paragraph (b) of this subsection.

(3) In the case of any building specified in columns (1) and (2) of Part 1 of schedule 10 in relation to which any description of works is specified in column (3) of that Part of that schedule, subsection (1) shall have effect as if the references to works carried out in exercise of the powers conferred by this Act were, so far as concerns works of demolition or alteration (as opposed to extension), to works so carried out which are of a description specified in relation to it in that column.

(4) Paragraphs (a) to (d) of subsections (1) and (2) shall also apply in relation to a listed building which was not such a building immediately before the coming into force of this Act.

(5) If a building included in a conservation area and not a listed building—

(a) was not included in a conservation area immediately before the coming into force of this Act, or

(b) was included in such an area immediately before that date and is specified in columns (1) and (2) of Part 1 of schedule 10,

section 66 (Control of demolition in conservation areas) of the 1997 Act shall not apply to the demolition of it in exercise of the powers conferred by this Act.

(6) Anything which, by virtue of section 1(4) (Listing of buildings of special architectural or historic interest) of the 1997 Act is treated as part of the building for the purposes of that Act, shall be treated as part of the building for the purposes of this section.

(7) Section 53 (Acts causing or likely to result in damage to listed buildings) of the 1997 Act shall not apply to anything done in exercise of the powers conferred by this Act with respect to works.

(8) In this section—

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

"building" and "listed building" have the same meaning as in the 1997 Act;

"conservation area" means an area which is designated as a conservation area under the terms of the 1997 Act; and

"works" includes the attachment of equipment to buildings authorised by section 16 (Attachment of equipment to buildings for purposes of works).

**73 Town and country planning, etc.**

(1) So far as they are not inconsistent with the provisions of this Act, the 1997 Act and any orders, regulations, rules, schemes and directions made or given under it and any restrictions or powers imposed by it or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development of such 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 1992 Order (which permit development authorised by any Act of the Parliament (among other legislation) which designates specifically both the nature of the development authorised by it 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 20 years of the date on which this Act comes in to force.

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

(4) In its application to development authorised by this Act and for the avoidance of doubt, Class 29 in Part 11 of Schedule 1 to the 1992 Order shall be interpreted as follows—

(a) buildings shall be deemed to include substations, tramstops and poles;

(b) extensions to buildings shall be deemed to include attachments to buildings;

(c) in relation to prior approval for works affecting a listed building, consideration of the phrase "injury to the amenity of the neighbourhood" in paragraph 3(b) shall be deemed to include the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and

(d) the exercise of the power to attach equipment to buildings under section 16 (Attachment of equipment to buildings for purposes of works) and any wires so attached shall be deemed to be on land specifically designated by this Act.

(5) Without prejudice to development permitted by Class 29 in Part 11 of Schedule 1 to the 1992 Order and for the avoidance of doubt, for the purposes of Part 13 of Schedule 1 to the 1992 Order (which permits certain development by statutory undertakers)—

(a) the road tramways comprised in the works and the works and conveniences connected with those tramways shall be taken to be a tramway undertaking within Class 41 of that Part of that Schedule; and

(b) the tramroads comprised in the works and the works and conveniences connected with those tramroads shall be taken to be a light railway undertaking within Class 34 of that Part of that Schedule.

(6) In this section "the 1992 Order" means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I. 1992/223).

**74 Blighted land**

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

(2) Accordingly, Chapter II of Part V of that Act (which makes provision for the purchase of certain interests in land affected by planning proposals) shall apply to land authorised to be compulsorily acquired under this Act.

**75 Saving for roads authority**

(1) Subject to subsection (2), this Act shall not affect any power of a roads authority to widen, alter, divert or improve any public road along which a road tramway is laid.

(2) Works for the purpose, or having the effect, of altering the part of the road in which an authorised road tramway is situated shall not be carried out without the consent of the authorised undertaker.

(3) Consent under subsection (2) may be given subject to such reasonable terms and conditions as the authorised undertaker may require, but shall not be unreasonably withheld, and any difference arising under this section shall be determined by Scottish Ministers.

**76 Certification of plans, etc.**

The authorised undertaker shall, as soon as practicable after the coming into force of this Act, submit copies of the book of reference, the Parliamentary plans and the Parliamentary sections to the Clerk of the Parliament for certification that they are, respectively the book of reference, Parliamentary plans and Parliamentary sections referred to in this Act, and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

**77 Service of notices**

(1) A notice or other document required or authorised to be served for the purposes of this Act may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Act is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (References to service by post) of the Interpretation Act 1978 (c.30) as it applies for the purposes of this section, the proper address of any person in relation to the service on that person of a notice or document under subsection (1) is, if such person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of such person at the time of service.

(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 name or address of such person cannot be ascertained after reasonable enquiry, the notice may be served by—

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

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This section shall not be taken to exclude the employment of any method of service not expressly provided for by it.

**78 Application of Railways Act 1993**

For the avoidance of doubt it is hereby declared that the authorised tramway shall be deemed to be a tramway for the purposes of Part I of the Railways Act 1993 (c.43).

**79 Arbitration**

(1) Any difference under any provision of this Act (other than a difference which falls to be determined by the tribunal or Scottish Ministers) shall be referred by either party to the dispute 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 Institute of Civil Engineers, and the arbiter shall be entitled to state a case for the opinion of the Court of Session pursuant to section 3 (Power of arbiter to state case to Court of Session) of the Administration of Justice (Scotland) Act 1972 (c.59).

(2) Section 108 (Right to refer disputes to adjudication) of the Housing Grants, Construction and Regeneration Act 1996 (c.53) and any regulations made under that section shall not apply to the authorised works.

## PART 6

SUPPLEMENTARY

**80 Incorporation of enactments**

(1) The Lands Clauses Acts, except sections 120 to 125 of the 1845 Act, so far as they are applicable for the purposes of, and are not varied by or inconsistent with, the provisions of this Act, are incorporated with this Act.

(2) Section 6 of the Railway Clauses Consolidation (Scotland) Act 1845 is incorporated with this Act to the extent that it applies to compensation payable in respect of diminution in value to properties caused by construction works, and for the avoidance of doubt no other provisions of the Railway Clauses Consolidation (Scotland) Act 1845 are incorporated with this Act.

(3) 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 promoters of the undertaking or the company; and

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

**81 Interpretation**

In this Act, unless the context otherwise requires—

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

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

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

"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);

"authorised road tramway" means any road tramway authorised by this Act;

"the authorised tramway" means the tram system (consisting of the authorised road tramways and the authorised tramroads) authorised by this Act or any part of that system;

"authorised tramroad" means any tramroad authorised by this Act;

"the authorised undertaker" means the Council, or any other person who by virtue of an agreement made under section 68 (Powers of disposal, agreements for operation, etc.) may exercise any power conferred by this Act;

"the authorised works" means the scheduled works and any other works authorised by this Act;

"the book of reference" means the book of reference submitted to the Parliament as an accompanying document with the Bill for this Act together with the amendments made to it to delete the following plots, 42-59 (including plots 50a and 51a), 223, 226-238 (including 232a), 240, 241, 243-249, 251, 253, 256, 258, 260 and 261 and to insert the following plots, 477-524;

"the Council" means the City of Edinburgh Council;

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

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

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace and "maintenance" shall be construed accordingly;

"Network Rail" means Network Rail Limited or its successor;

"the Parliament" means the Scottish Parliament;

"the Parliamentary plans" means the plans submitted to the Parliament as accompanying documents with the Bill for this Act together with amendments made to sheet i, ii, 3, 4, 6, 7, 13, 14, 15, 16, 17, 19, 20, 21 and 23;

"the Parliamentary sections" means the sections submitted to the Parliament as accompanying documents with the Bill for this Act together with amendments made to sheet 28;

"road" and "roads authority" have the same meaning as in the Roads (Scotland) Act 1984 (c.54);

"road tramway" means any tramway which is situated in the carriageway of a road, or in a reserved area of a road which vehicles other than trams are deterred or prevented from using, or in any other place to which the public has access (including a place to which the public has access only on making a payment);

"the road works authority" has the same meaning as in Part IV of the 1991 Act;

"the scheduled works" means the works specified in schedule 1 to this Act or any part of them;

"the sheriff" means the sheriff principal of, or any sheriff appointed to, the sheriffdom of Lothian and Borders;

"tram" means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a tramway;

"tramroad" means any part of a tramway that is not a road tramway;

"tramway" means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which provide support and guidance for vehicles carried on flanged wheels;

"tramway premises" means premises of the authorised undertaker used for or in connection with the operation of the authorised tramway including any tunnel, depot or building and any tram; and

"the tribunal" means the Lands Tribunal for Scotland.

**82 Orders**

(1) Any power of Scottish Ministers to make orders under this Act shall be exercisable by statutory instrument.

(2) Any such power includes power to make—

(a) such incidental, consequential, supplementary or transitional provision as Scottish Ministers think necessary or expedient; and

(b) different provision for different cases and different classes of case.

(3) A statutory instrument containing an order made under this Act shall be subject to annulment in pursuance of a resolution of the Parliament.

**83 Short title**

This Act may be cited as the Edinburgh Tram (Line Two) Act 2006.

## SCHEDULE 1
*(introduced by section 1)*

### SCHEDULED WORKS

In the local government area of the City of Edinburgh—

**Work No. 1**—A road tramway 463 metres in length (single line) extending from its junction with the termination of Work No. 3 at a point on Princes Street near the Sir Walter Scott Monument, along Princes Street, South St. Andrew Street, the east side of St. Andrew Square, North St. Andrew Street to a point on North St. Andrew Street south of the junction with Queen Street.

**Work No. 2**—A road tramway 495 metres in length (single line) extending from its junction with the termination of Work No. 3 at a point on Princes Street near the Sir Walter Scott Monument, along South St. David Street, the west side of St. Andrew Square, North St. David Street, Queen Street and North St. Andrew Street to its junction with the termination of Work No. 1 on North St. Andrew Street.

**Work No. 3**—A road tramway 1724 metres in length (double line) extending from its junction with the termination of Work No. 4, along Haymarket Terrace, Clifton Terrace, West Maitland Street, Shandwick Place, Rutland Place and Princes Street to its junction with the commencement of Work No. 1 at a point near the Sir Walter Scott Monument.

**Work No. 4**—A tramroad 670 metres in length (double line, with additional layover siding of approximately 100 metres in length) and associated retaining wall structures extending from a point close to 57 Balbirnie Place along the reserved public transport corridor between Balbirnie Place, CA House, Elgin House and the railway, on-road along Haymarket Yards, before running off-road to the north of Rosebery House to a point on the south side of Haymarket Terrace near Haymarket Station.

**Work No. 5**—A tramroad 1650 metres in length (double line) extending from its junction with the commencement of Work No. 4, crossing Russell Road by bridge, crossing Roseburn Street by bridge, crossing the Water of Leith by viaduct and crossing Balgreen Road by bridge, to a point close to the Jenners Depository, including construction of a viaduct along the north side of the main railway line.

**Work No. 5A**—A path and cycleway 300 metres in length extending from a junction with Russell Road south across the disused railway lines to a junction with Balbirnie Place near 46 Balbirnie Place.

**Work No. 5B**—A tramroad 105 metres in length (double line) extending from a point on Work No. 5 to the east of Russell Road, crossing Russell Road by bridge, to a point on the disused railway lines near 46 Balbirnie Place.

**Work No. 5C**—An access road 142 metres in length extending from a junction with Russell Road near 20 Russell Road, crossing Work No. 5 on the level, to a point near the main railway line sidings.

**Work No. 5D**—An access road 66 metres in length extending from a junction with Roseburn Street near the entrance to Murrayfield Stadium, under Work No. 5, to a point near the main railway sidings.

**Work No. 5E**—An access road 30 metres in length extending from a junction with Roseburn Street north of the junction with West Approach Road, under Work No. 5, to a point near Murrayfield Stadium.

**Work No. 5F**—An access road 116 metres in length extending from a junction with Balgreen Road near the junction with Whitson Road, along Pansy Walk and northeast to a point near the main railway line.

**Work No. 5G**—An access road 305 metres in length extending from a point near where the main railway line crosses Leith Water to a point near where the main railway line crosses Balgreen Road, including a junction with the termination of Work No. 5F.

**Work No. 5H**—An access road 172 metres in length extending from a junction with Balgreen Road south of the junction with Baird Drive, crossing Work No. 5 on the level, to a point close to the Jenners Depository.

**Work No. 6**—A tramroad 1188 metres in length (double line) extending from its junction with the termination of Work No. 5, crossing the main railway lines by bridge, to Saughton Mains Street.

**Work No. 6A—**Diversion of Carrick Knowe footpath 42 metres in length extending from a junction with Stenhouse Drive, crossing Work No. 6 on the level, to a point on the existing Carrick Knowe footpath.

**Work No. 7**—A tramroad 3150 metres in length (double line) extending from its junction with the termination of Work No. 6, crossing Saughton Road by bridge, crossing Broomhouse Road by bridge, crossing South Gyle Access by bridge and crossing the main railway line by viaduct, to a point near Lochside Way, including provision of a footpath and cycleway.

**Work No. 7A**—An access road 251 metres in length extending from a junction with Cultins Road to a junction with the roundabout at Hermiston Gait.

**Work No**. **8**—A tramroad 950 metres in length (double line) extending from its junction with the termination of Work No. 7, crossing Lochside Avenue on the level, crossing South Gyle Broadway on the level and terminating at a point between South Gyle Broadway and the car park of the Gyle Shopping Centre.

**Work No**. **9**—A tramroad 4099 metres in length (double line) extending from its junction with the termination of Work No. 8, under the A8 Glasgow Road, crossing the access road to Meadowfield Farm on the level, crossing the access road to Gogar Castle on the level, crossing the access road to Gogar Farm on the level, crossing Gogar Burn by bridge, crossing Gogar Mains Farm Road on the level, past the Ingliston Park and Ride, crossing the access road to Edinburgh Airport on the level and terminating at a point to the south of the Edinburgh Airport terminal building, including construction of a depot north of the A8 Glasgow Road and construction of a car park for the Ingliston Park and Ride.

**Work No. 9A**—An access road 585 metres in length extending from a junction with the access road to Meadowfield Farm along the access road to Castle Gogar to a junction with the A8 Glasgow Road.

**Work No. 10**—A tramroad 530 metres in length (double line) extending from its junction with Work No. 9 at the Ingliston Park and Ride, crossing Eastfield Road on the level, to a point near the A8 Glasgow Road north of No. 4 Ingliston, including construction of a car park for the Ingliston Park and Ride.

**Work No. 11—**A road tramway 890 metres in length (double line) extending from its junction with the termination of Work No. 10, crossing Ingliston Road on the level, along the A8 Glasgow Road to a point south of the junction with Hallyards Road.

**Work No. 12—**A tramroad 950 metres in length (double line) extending from its junction with the termination of Work No. 11, crossing Station Road on the level, to Harvest Road.

**Work No. 12A—**A path 84 metres in length, crossing work No. 12 on the level.

**Work No. 13—**A road tramway 1817 metres in length (double line) extending from its junction with the termination of Work No. 12, along Harvest Road, under the M9 motorway, along Cliftonhall Road, along Newbridge Industrial Estate Road and terminating at a point west of the Newbridge Roundabout.

**Work No. 13A—**A revision to the road layout 154 metres in length of the Newbridge Industrial Estate Access Road at the termination of Work No. 13.

**Work No. 13B—**A revision to the road layout 386 metres in length of the B7030 near Newbridge Industrial Estate and the Newbridge Roundabout at the termination of Work No. 13.

SCHEDULE 2
*(introduced by section 3)*

ROADS SUBJECT TO ALTERATION OF LAYOUT

| *Sheet on Parliamentary plans (1)* | *Road subject to alteration of layout (2)* | *Description of alteration (3)* |
|---|---|---|
| In the local government area of the City of Edinburgh— | | |
| 1 and 2 | Princes Street | Realignment of kerbline between points K1 and K14, and K11 and K13 |
| 1 | South St. David Street and North St. David Street | Realignment of kerbline between points K1 and K3, and K2 and K4 |
| 1 | South St. Andrew Street and North St. Andrew Street | Realignment of kerbline between points K5 and K9, and K6 and K10 |
| 1 | Queen Street | Realignment of kerbline and revised road layout between points K6 and K7, and K8 and K8A |
| 2 | Shandwick Place, Rutland Street, Lothian Road, Princes Street and South Charlotte Street | Realignment of junction and revision of kerblines, shown generally as RJ1 |
| 2 and 3 | Shandwick Place | Realignment of kerbline between points K16 and K18, and K15 and K17 |
| 3 | West Maitland Street, Torphichen Place, and Torphichen Street | Realignment of junction and revision of kerblines, shown generally as RJ2 |
| 3 | Haymarket Terrace, Clifton Terrace, Haymarket, West Maitland Street, Grosvenor Street, Dalry Road, and Morrison Street. | Realignment of junction and revision of kerblines, shown generally as RJ3 and RJ4 |
| 3 and 4 | Haymarket Yards to Haymarket Station car park | Realignment of road between points P4C and P4D |
| 3 and 4 | Haymarket Yards | Realignment of road between points P4D and P4U |
| 3 and 4 | Haymarket Yards and Haymarket Terrace | Realignment of kerblines between points K19 and K23, K20 and K21, and K22 and K23 |

| *Sheet on Parliamentary plans (1)* | *Road subject to alteration of layout (2)* | *Description of alteration (3)* |
|---|---|---|
| 12 | Cultins Road and Hermiston Gait Roundabout | Revised road layout between points K24 and K25, K26 and K27, and between points K28, K29, K30 and K28 |
| 14 | Lochside Avenue | Revised kerblines between points K31 and K32, and K33 and K34 |
| 14 | Lochside Crescent | Revised kerblines between points K35, K36, K37 and K35 |
| 14 | Edinburgh Park | Revised kerblines between points K38 and K39, and K40 and K41 |
| 15 | New access road | New road layout between points K42 and K43, and K44, K45 and K46, and K47 and K45 |
| 15 | A8 Glasgow Road roundabout | Revised kerblines between points K41a and K41b, and K41c and K41d |
| 20 and 21 | Burnside Road and Jubilee Road | Revised kerblines between points K48 and K48a, K50 and K50c, K48c and K48b, K50B and K51, and K48c and K49 |
| 22 and 23 | A8 Glasgow Road and Fairview Road | Revised kerblines between points K52, K53 and K52, K54 and K55 and between K56 and K57, K58 and K59, K60 and K61, K62 and K63 |
| 24 | Station Road | Revised kerblines between points K64 and K65 |
| 25 and 26 | Harvest Road | Revised road layout between the commencement of Work No 13 and the junction with Clifton Hall Road |
| 25 and 26 | Harvest Road and Clifton Hall Road | Revised kerblines between points K66 and K67, K68 and K69, K70 and K71, K72 and K73, K76 and K77, and between K74 and K75, and between points K78 and K79 and K80 and K81 |
| 26 | Industrial Estate Access Road at Newbridge, the B7030 and Old Liston Road | Revised kerblines between points K82 and K83, K84 and K85, K86 and K87, K88 and K89, K90 and K91, K92 and K93, K94 and K95, K96 and K97, K98 and K99, K100 and K101, K102 and K103, K104 and K105, K106 and K107, K108 and K109, K110 and K111 and between K112, K113, K114 and K112 |

SCHEDULE 3
*(introduced by section 6)*

ROADS TO BE PERMANENTLY STOPPED UP

**PART 1**

ROADS TO BE PERMANENTLY STOPPED UP WITH A SUBSTITUTE PROVIDED

| *Sheet of Parliamentary plans (1)* | *Road to be stopped up (2)* | *Extent of stopping up (3)* | *Substitute (4)* |
|---|---|---|---|
| In the local government area of the City of Edinburgh— | | | |
| 3 and 4 | Car park access north of Rosebery house | Between P4A and P4B | New access to be provided between P4C and P4D |
| 4 | Cycletrack along the south side of Haymarket Yards | Between P4J and P4R | New cycletrack to be provided between points P4S and P4T |
| 4 | Cycleway at Balbirnie Place | Between the commencement of Work No. 5A and P5A and the termination of Work No. 5B | Work No. 5A |
| 6 and 7 | Balgreen Cycleway (LC 27) | Between the commencement of Work No. 5H and P5M | New cycleway between the commencement of Work No. 5H and P5N and P5M |
| 24 | Path LC111 | Between the commencement of Work No. 12A and the termination of Work No. 12A | Work No. 12A |
| 24 and 25 | Station Road | Between P12A and P12B | New path between P12C and P12D |
| 26 | The B7030 | Footway between P13A, P13B and P13C | New footway between P13A, P13D and P13C |

## PART 2

ROADS TO BE STOPPED UP TO VEHICULAR ACCESS AND EGRESS ONLY

| *Sheet of Parliamentary plans (1)* | *Road to be stopped up (2)* | *Extent of stopping up (vehicular access and egress only) (3)* |
|---|---|---|
| In the local government area of the City of Edinburgh— | | |
| 1 | South end of Frederick Street | Between P3A and P3B |
| 2 | South end of Stafford Street | Between P3C and P3D |
| 2 | North end of Canning Street | Between P3E and P3F |
| 25 | Station Road (near Ratho Station) | Between P12A and P12B |

## PART 3

ROADS TO BE PERMANENTLY STOPPED UP WITH NO SUBSTITUTE PROVIDED

| *Sheet of Parliamentary plans (1)* | *Road to be stopped up (2)* | *Extent of stopping up (3)* |
|---|---|---|
| In the local government area of the City of Edinburgh— | | |
| 24 and 25 | Station Road | Between P12A and P12B (vehicular access and egress only) |

SCHEDULE 4
*(introduced by section 7)*

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 the City of Edinburgh— | | |
| 3 | Cycletrack from Balbirnie Place to Haymarket Yards | Between P4K and P4R |
| 3 | Turning head on Haymarket Yards | Between P4Q and P4P |
| 3 | Access to Verity House car park | Between P4N and P4O |
| 3 | Access to Rosebery House | Between P4L and P4M |
| 4 | Russell Road | Between P5B and P5C |
| 5 | Roseburn Street | Between P5D and P5E |
| 6 | Path LC28 (Water of Leith Walkway) | Between P5F and P5G and between P5H and P5J |
| 6 | Balgreen Road | Between P5K and P5L |
| 7 and 8 | Carrick Knowe footpath | Between the commencement of Work No. 6A and the termination of Work No. 6A, substitute to be provided between the commencement of Work No. 6A and P6C and P6D |
| 8 and 9 | Saughton Mains Street | Between the termination of Work No. 6A, P6C, P7A and P7B |
| 9 | Saughton Road | Between P7C and P7D |
| 10 | Broomhouse Road | Between P7E and P7F |
| 10 | South Gyle Access | Between P7G and P7H |
| 10 | Bankhead Drive | Between P7J and P7K |
| 12 | Hermiston Gait | Between P7L, P7M, P7N and P7L |
| 13 | Path south of Loch Ross | Between P8A and P8B |

## SCHEDULE 5
*(introduced by section 15)*

### LEVEL CROSSINGS

The following roads are to be crossed on the level:

In the local government area of the City of Edinburgh—

Haymarket Yards

Cycletrack between Balbirnie Place and Haymarket Yards

Lochside Avenue

Saughton Mains Street

South Gyle Broadway

Access Road to Meadowfield Farm

Access Road to Castle Gogar

Gogar Mains Farm Road

Access Road to Gogar Farm

Burnside Road

Eastfield Road

Eastfield Avenue

Glasgow Road

SCHEDULE 6
*(introduced by sections 1 and 23)*

ACQUISITION OF CERTAIN LAND

**PART 1**

ACQUISITION OF LAND

| *Sheet of Parliamentary plans (1)* | *Number of land shown on plans (2)* | *Purpose for which land may be acquired (3)* |
|---|---|---|
| In the local government area of the City of Edinburgh— | | |
| 4 | 36a, 512 | Alternative access and road access to tramroad for maintenance |
| 9 | 161, 162 | Working site and thereafter public access to tram stop |
| 9 and 10 | 165 | Landscaping |
| 10 | 166, 173, 175 | Landscaping |
| 10 to 12 | 184 | Landscaping |
| 15 | 262 | Landscaping |
| 16 | 288 | Pedestrian access |
| 16 | 262, 263, 274, 292, 293, 295, 301, 305, 306 | Landscaping |
| 16 and 17 | 304 | Landscaping |
| 22 | 376, 377, 378, 381, 382, 386 | Landscaping |
| 24 | 411 | Landscaping |

## PART 2

ACQUISITION OF RIGHTS IN LAND

| *Sheet of Parliamentary plans (1)* | *Number of land shown on plans (2)* | *Purpose for which rights may be acquired (3)* |
|---|---|---|
| In the local government area of the City of Edinburgh— | | |
| 6 | 110 | Installation of apparatus |
| 13 | 206, 207, 207a, 208a, 209 | Installation of apparatus |
| 14 | 220, 221 | Installation of apparatus |
| 17 and 18 | 311 | Emergency access |
| 19 | 317, 320 | Flood relief |
| 23 | 397, 400, 401 | Installation of apparatus |
| 25 | 417, 418, 419 | Access for maintenance |

SCHEDULE 7
*(introduced by section 26)*

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| *Sheet of Parliamentary plans (1)* | *Number of land shown on plans (2)* | *Purpose for which temporary possession may be taken (3)* | *Authorised work (4)* |
|---|---|---|---|
| In the local government area of the City of Edinburgh— | | | |
| 3 | 36 | Working site and access | All |
| 4 | 67 | Working site and access | All |
| 4 | 502, 504, 509 | Regulation of road levels and any associated retaining structures and landscaping | All |
| 4 | 515, 519 | Road access to tramroad to allow construction of authorised works and subsequent regulation of road levels | All |
| 4 | 520, 521 | Road access to tramroad to allow construction of authorised works and subsequent regulation of road levels and realignment of cycleway and footway | All |
| 5 | 67, 71, 74, 80, 84, 85, 86, 89, 93, 94, 98, 99, 100, 104, 105 | Working site and access | All |
| 5 | 78 | Relocation of apparatus | All |
| 5 | 83, 87, 88, 90, 95, 98 | Accommodation works | All |
| 6 | 105, 110, 117, 118, 119, 122, 135, 137 | Working site and access | All |
| 8 | 148, 149, 156, 157 | Working site and access | All |
| 9 | 156, 157, 158, 160 | Working site and access | All |
| 10 | 166, 167, 168, 169, 171, 172, 174, 177, 179, 180, 181, 182 | Working site and access | All |
| 11 | 179, 185 | Working site and access | All |

| *Sheet of Parliamentary plans (1)* | *Number of land shown on plans (2)* | *Purpose for which temporary possession may be taken (3)* | *Authorised work (4)* |
|---|---|---|---|
| 12 | 193, 194, 196, 197, 198, 199, 200, 202 | Working site and access | All |
| 12 and 13 | 203, 205 | Working site and access | All |
| 14 | 218, 225 | Accommodation works | All |
| 14 | 224, 225, 484 | Working site and access | All |
| 14 and 15 | 484, 485 | Accommodation works | All |
| 15 | 239, 242, 484, 486, 489, 490, 492 | Working site and access | All |
| 15 | 487, 488 | Accommodation works | All |
| 15 and 16 | 262 | Working site and access | All |
| 16 | 263, 269, 275, 276, 278, 279, 293, 294, 295, 297, 298, 298a, 299, 300, 301, 302, 305, 306 | Working site and access | All |
| 17 | 308 | Working site and access | All |
| 17 | 309, 310 | Accommodation works | All |
| 17 and 18 | 311 | Working site and access | All |
| 19 | 313, 314, 316, 324, 325 | Working site and access | All |
| 20 | 334, 336, 339, 340, 341, 342, 343, 346, 347, 348 | Working site and access | All |
| 22 | 325, 365, 366, 367, 368, 380, 384, 387, 388, 390, 391 | Working site and access | All |
| 23 | 397, 399, 400, 401 | Working site and access | All |
| 24 | 409, 410 | Working site and access | All |
| 25 | 417, 418, 419 | Working site and access | All |
| 26 | 467, 469, 473 | Working site and access | All |

## SCHEDULE 8
*(introduced by section 57)*

PERMITTED EVENTS ON TRAM ROUTE

The Edinburgh Festival Cavalcade

The Edinburgh Festival Fireworks Concert

The Hogmanay Street Party

## SCHEDULE 9
*(introduced by sections 5, 6 and 71)*

PROVISIONS RELATING TO 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; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 228 to 231, which contain provisions consequent 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.

(2) Where any apparatus of public utility undertakers 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), 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 such a 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.

(3) Sub-paragraph (2) 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 sub-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 recently incurred by such a person, in consequence of the removal, for the purpose of making the drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(4) The provisions of the 1997 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 or Part IV of the 1991 Act applies.

(5) In this paragraph—

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

"public communications provider" has the same meaning as in section 151 of the Communications Act 2003 (c.21); and

"public utility undertakers" means persons who are—

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

(b) gas transporters; or

(c) the holders of licences under section 6 of the Electricity Act 1989 (c.29),

and who are, or are deemed to be, statutory undertakers 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 6 (Permanent stopping up of roads) 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 6 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 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, 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).

*Railway and navigation undertakings*

3 (1) Subject to the following provisions of this paragraph, the powers under section 5 (Power to execute road works) to break up or open a road shall not be exercisable where the road, not being a public road (within the meaning of the Roads (Scotland) Act 1984 (c.54))—

(a) is under the control or management of, or is maintainable by, railway or tramway undertakers, or

(b) forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person,

except with the consent of the undertakers or the authority of the person to whom the level crossing belongs, as the case may be.

(2) Sub-paragraph (1) shall not apply to the carrying out under this Act of emergency works, within the meaning of Part IV of the 1991 Act.

(3) A consent given for the purposes of sub-paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.

SCHEDULE 10
*(introduced by section 72)*

LISTED BUILDINGS

**PART 1**

LISTED BUILDINGS TO WHICH WORKS MAY BE CARRIED OUT

| *Sheet of Parliamentary plans (1)* | *Listed building (2)* | *Limit of authorised alteration or demolition (3)* |
|---|---|---|
| In the local government area of the City of Edinburgh— | | |
| 3 | Haymarket Terrace, Haymarket Inn (known as the Caledonian Ale House) | Demolition |
| 3 | Heart of Midlothian War Memorial, Haymarket | Repositioning of memorial |
| 3 | Haymarket Terrace, Haymarket Station Entrance and Office Block with Steps, Railings and Lamp | Demolition of steps and removal of lamp |

**PART 2**

LISTED BUILDINGS TO WHICH EQUIPMENT MAY NOT BE ATTACHED WITHOUT CONSENT

In the local government area of the City of Edinburgh—

140 Balgreen Road, Jenners Depository, with lodge, garages, gatepiers and railings

Glasgow Road, Castle Gogar Lodge and gatepiers

194 Glasgow Road, Former Gogar Parish Church and churchyard

Haymarket, Heart of Midlothian War Memorial

5b York Place, Former St George's Chapel (Episcopal) including railings and lamps

Professor Wilson, Statue East Princes Street Gardens, Princes Street

Dr Livingstone, Statue East Princes Street Gardens, Princes Street

Adam Black, Statue, East Princes Street Gardens, Princes Street

West Princes Street Gardens, Royal Scots Memorial

West Princes Street Gardens, Thomas Guthrie Monument

West Princes Street Gardens, Sir James Young Simpson Monument

W E Gladstone, Memorial Coates Crescent and Shandwick Place

National Portrait Gallery, Queen Street

12, 12a and 13 St Andrew Square, Guardian Royal Exchange

22, 21 and 22 St Andrew Square and 1-5 (Odd Nos.) North St David Street with railings, IBM Ltd

23 and 23a St Andrew Square with railings

26 St Andrew Square with railings

28 St Andrew Square with balustrading, Scottish Equitable

3 and 3a St Andrew Square

35 St Andrew Square with lamp standards and railings

36 St Andrew Square, Dundas House, Royal Bank of Scotland Head Office, with associated additions, walls, gatepiers, gates, railings and lamp standards

37 St Andrew Square, Bank of Scotland, with railings and lamp standards

38 and 39 St Andrew Square, Bank of Scotland with lamp standards

42 St Andrew Square, Royal Bank of Scotland

9 and 10 St Andrew Square

Jenners, Princes Street

Royal Scottish Academy, Princes Street

Scott Monument

St John's Church, Princes Street

St George's West Church, Shandwick Place

Caledonian Hotel, Rutland Place

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