

Edinburgh Airport Rail Link Bill
[DRAFT]

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Edinburgh Airport Rail Link Bill

Draft

An Act of the Scottish Parliament to authorise the construction of new railways to link Edinburgh Airport to the national rail network; and for connected purposes.

PART 1

WORKS, ETC.

Works

1 Power to construct works

- (1) The authorised undertaker may construct the authorised works, namely—
 - (a) the scheduled works referred to in section 2 below (“the scheduled works”); and
 - (b) the ancillary works referred to in section 3 below (“the ancillary works”).
- (2) The extent of the scheduled works for which authority is given by this section is subject to section 4 below (which permits deviation within limits from the lines and levels shown on the Parliamentary plans and sections).

2 The scheduled works

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

3 The ancillary works

- (1) The ancillary works are such works of the nature described in schedule 2 to this Act as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the scheduled works.
- (2) Where the authorised undertaker lays down works for the accommodation of cables or other apparatus for the purposes of the authorised works, the ancillary works may include, in or in connection with such works, accommodation for the apparatus of any other person and facilities for access to such accommodation and may do so notwithstanding that such works and facilities may be for the exclusive use of that other person.
- (3) Subject to subsection (4) below, subsection (1) above shall only authorise the carrying out or maintenance of works—
 - (a) within the limits of deviation and at the levels shown on the Parliamentary plans and sections for the scheduled works, or as deviated in accordance with section 4 below; and

- (b) on land specified in columns (1), (2) and (3) of schedule 5 for the purpose specified in relation to that land in column (4) of that schedule (being land shown on the Parliamentary plans as lying within the limits of land to be acquired or used).
- (4) The authorised undertaker may construct and maintain ancillary works identified in paragraphs 10 and 11 of schedule 2 to this Act anywhere within the limits of land to be acquired or used.

4 Permitted deviation within limits

- (1) Subject to subsection (2) below, in constructing or maintaining the scheduled works the authorised undertaker may—
 - (a) deviate laterally from the lines or situations shown on the Parliamentary plans within the limits of deviation for that work shown on those plans; and
 - (b) deviate vertically from the levels shown on the Parliamentary sections—
 - (i) in the case of Works Nos. 1 and 1A, to any extent not exceeding 7 metres upwards;
 - (ii) in any other case, to any extent not exceeding 3 metres upwards; and
 - (iii) to any extent downwards.
- (2) Subsection (1)(b)(ii) above does not apply to the ventilation shafts forming part of Works Nos. 2, 3A, 3B and 4.

5 Work No. 4: station and southern tunnel portal

- (1) The design and location within the parameters described in schedule 1 to this Act of—
 - (a) the station; and
 - (b) the southern portal of the tunnel;forming part of Work No. 4 shall be subject to agreement with BAA plc.
- (2) Any dispute under this section as to the design or location of the station or portal shall be referred to arbitration.

6 Access to works

- (1) The authorised undertaker may, for or in connection with the authorised works, form and lay out means of access, or improve existing means of access, to or from any public road—
 - (a) at the points shown on the Parliamentary plans; or
 - (b) in such location or locations within the limits of deviation or the limits of land to be acquired or used as may be approved by the roads authority.
- (2) Approval of the roads authority under subsection (1)(b) above shall not be unreasonably withheld or delayed.

7 Construction and maintenance of new or altered roads

- (1) Each of Works Nos. 2C, 2J, 2K, 4H, 4J, 4P, 5B, 5D to 5H, 5J, 5K and 5P shall, unless otherwise agreed, be completed to the reasonable satisfaction of the roads authority.
- (2) Following such completion the work shall, unless otherwise agreed, be maintained—
 - (a) by and at the expense of the authorised undertaker for a period of 12 months from its completion; and
 - (b) at the expiry of that period by and at the expense of the roads authority.
- (3) Nothing in this section shall prejudice the operation of section 146 of the 1991 Act (prospective public roads); and the authorised undertaker shall not by reason of any duty under this section to maintain a road be taken to be the roads authority in relation to that road for the purposes of Part IV of that Act.
- (4) Nothing in this section shall have effect in relation to road works as respects which the provisions of Part IV of the 1991 Act apply.

8 Vesting of private roads

- (1) Each of the private roads comprising Works Nos. 1B, 2A, 2B, 2D to 2F, 3C, 3F, 4C, 4E, 4K to 4N, 4S, 4R, 5A, 5L, 5N, 6A, 6B, 6C, 6D and 6E and so much of Castle Gogar driveway as lies within plots numbers 705 and 711 in the City of Edinburgh shall, unless otherwise agreed in relation to that road between—
 - (a) the authorised undertaker; and
 - (b) the person in whom the authorised undertaker intends to vest the road;be maintained by and at the expense of the authorised undertaker for a period of 12 months from its completion.
- (2) At the expiry of the period during which the authorised undertaker is liable to maintain any road under subsection (1) above the road shall by virtue of this section vest in the person referred to in that subsection in relation to the road.

9 Permanent stopping up of roads

- (1) Subject to the provisions of this section, the authorised undertaker may, in connection with the construction of the authorised works, stop up each of the roads specified in columns (1) and (2) of Part 1 of schedule 3 to this Act to the extent specified (by reference to the letters and numbers shown on the Parliamentary plans) in column (3) of that Part.
- (2) No part of a road specified in Part 1 of schedule 3 to this Act in relation to which a substitute road is specified in column (4) of that Part shall be stopped up under this section until either—
 - (a) the substitute has been completed to the reasonable satisfaction of the roads authority and is open for public use; or
 - (b) a temporary alternative route is first provided and thereafter maintained by the authorised undertaker to the reasonable satisfaction of the roads authority between commencement and termination points of the road to be stopped up until completion of the new road in accordance with paragraph (a) above.
- (3) Where any part of a road has been stopped up under this section—

- (a) all rights of way over or along the stopped up part of the road shall be extinguished; and
 - (b) the authorised undertaker may, without making any payment, appropriate and use for the purposes of the authorised works so much of the site of the road as is bounded on both sides by land within the limits of deviation of the authorised works.
- (4) Any person who suffers loss by the extinguishment of any private right of way under this section shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.
- (5) This section is subject to paragraph 2 of schedule 7 to this Act.

10 Power to execute road works

- (1) The authorised undertaker may, for the purposes of exercising the powers conferred by this Act to construct any of the works mentioned in section 7(1) above or any scheduled work having a junction with a road, enter upon any road and execute any works required for or incidental to the exercise of those powers including (without prejudice to the generality of the foregoing) breaking up or opening the road, or any sewer, drain or tunnel under it, or tunnelling or boring under or opening the road, and may remove and use the soil or other materials in or under the road.
- (2) In this section “road” includes any road within Edinburgh Airport.

11 Works to be major works for roads purposes

- (1) Works to which subsection (2) below applies shall be treated for the purposes of Part IV of the 1991 Act as major works for roads purposes if—
- (a) they are of a description mentioned in any of paragraphs (a) to (d), (f) and (g) of section 145 (3) of that Act (which defines what roads authority works are major works for roads purposes); or
 - (b) they are works which, had they been executed under the powers of the roads authority, might have been carried out in exercise of the powers conferred by section 27 (dual carriageways, roundabouts and refuges) or 63 (new access over verges and footways) of the Roads (Scotland) Act 1984 (c.54).
- (2) Subject to subsection (3) below, this subsection applies to any of the works mentioned in section 7(1) above, or any scheduled work having a junction with a road, in either case where the construction of the work involves the execution of road works in relation to a road which consists of or includes a carriageway.
- (3) Subsection (2) above does not apply to any work executed under power delegated to a roads authority by an agreement under section 12 below.
- (4) In Part IV of the 1991 Act, references, in relation to major works for roads purposes, to the roads authority concerned shall, in relation to the works which are major roads for roads purposes by virtue of subsection (1) above, be construed as references to the authorised undertaker.

12 Agreements with roads authorities, etc.

- (1) Where under this Act the authorised undertaker is authorised to stop up or interfere with an existing road or part of an existing road, it may enter into agreements with the persons having the charge, management or control of the road concerning the construction (or contribution towards the expense of the construction) of —
 - (a) any new road to be provided in substitution;
 - (b) any alteration of the existing road, and
 - (c) any other related matters.
- (2) The authorised undertaker may, by agreement with any such persons, delegate to them the power of constructing any such new road or any such alteration of an existing road, including any bridge over any railway, and, where the authorised undertaker is responsible for maintaining the new or altered road or bridge, the power to maintain it.

Supplemental powers

13 Temporary stopping up, alteration or diversion of roads

- (1) During and for the purposes of the execution of the authorised works the authorised undertaker may temporarily stop up, alter or divert any road and may for any reasonable time—
 - (a) divert the traffic from the road; and
 - (b) subject to subsection (3) below, prevent all persons from passing along the road.
- (2) Without prejudice to the generality of subsection (1) above, the authorised undertaker may exercise the powers of this section in relation to each of the roads specified in columns (1) and (2) of Part 2 of schedule 3 to this Act to the extent specified (by reference to the letters and numbers shown on the relevant Parliamentary plans) in column (3) of that Part.
- (3) Without prejudice to the generality of subsection (1) above, the authorised undertaker may use any road stopped up under the powers of this section as a temporary working site.
- (4) The authorised undertaker shall provide reasonable access for pedestrians going to or from premises abutting on a road affected by the exercise of the powers conferred by this section if there would otherwise be no such access.
- (5) The authorised undertaker shall not exercise the powers conferred by this section—
 - (a) in relation to any road specified as mentioned in subsection (2) above, without first consulting the road works authority; and
 - (b) in relation to any other road, without the consent of the road works authority.
- (6) Consent under subsection (5)(b) above shall not be unreasonably withheld or delayed but may be given subject to such reasonable conditions as the road works authority may require.
- (7) Any question whether—
 - (a) consent under subsection (5)(b) above has been unreasonably withheld or delayed; or
 - (b) a condition imposed under subsection (6) above is unreasonable,

shall be determined by arbitration.

14 Discharge of water

- (1) The authorised undertaker may use any available stream or watercourse or any public sewer or drain for the drainage of water, and for that purpose may—
 - (a) lay down, take up and alter pipes; or
 - (b) on any land within the limits of deviation, the limits of land to be acquired or used or the limits of safeguarding, make openings into, and connections with the stream, watercourse, public sewer or drain.
- (2) The authorised undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld or delayed.
- (3) The authorised undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld or delayed.
- (4) The authorised undertaker shall take such steps as are reasonably practicable to secure that any water discharged under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.
- (5) Any difference under this section arising between the authorised undertaker and an authority which owns a public sewer or drain shall be determined by arbitration.
- (6) Section 30F of the Control of Pollution Act 1974 (c.40) (which makes it an offence to pollute rivers and other waters) shall apply to, or to the consequence of, a discharge under the powers conferred by this section into any controlled waters as if this section were not a provision of a local Act or a statutory order for the purposes of section 30I(1)(f) of that Act.
- (7) Nothing in this section shall affect the operation of Part IV of the 1991 Act.
- (8) In this section—

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

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

15 Safeguarding works to buildings

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

- (a) the limits of deviation or the limits of land to be acquired or used; or
 - (b) the limits of safeguarding and specified in Part 1 of schedule 4 to this Act;
- as the authorised undertaker considers to be necessary or expedient.
- (2) The powers conferred by this section shall be exercised subject to and in accordance with Part 2 of schedule 4 to this Act.
- (3) In this section and that schedule—
- (a) “building” includes any structure or erection (including a road, runway, taxiway or area any of which has a metalled surface) or any part of a building, structure or erection;
 - (b) any reference to a building within a specified distance of a work includes—
 - (i) in the case of a work under the surface of the ground, a reference to any building within the specified distance of the point on the surface below which the work is situated; and
 - (ii) where a work has not commenced, a reference to a building within the specified distance of the proposed site of the work; and
 - (c) “safeguarding works”, in relation to a building, means—
 - (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works;
 - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works; and
 - (iii) any works the purpose of which is to secure the safe construction and operation of the authorised works or to prevent or minimise the risk of such operation being disrupted.

PART 2

LAND

Powers of acquisition

16 Power to acquire land

- (1) The authorised undertaker may acquire compulsorily—
- (a) such of the land shown on the Parliamentary plans within the limits of deviation for the authorised works as—
 - (i) is described in the book of reference; and
 - (ii) may be required by the authorised undertaker for the purposes of the authorised works; and
 - (b) such of the land so shown within the limits of land to be acquired or used and so described as—
 - (i) is specified in columns (1), (2) and (3) of Part 1 of schedule 5 to this Act; and

(ii) may be required for the purposes specified in relation to that land in column (4) of that Part.

(2) This section is subject to sections 31 and 33 below.

17 Acquisition of subsoil or rights

(1) In exercise of the powers conferred by section 16 above the authorised undertaker may, as regards any land authorised to be acquired under that section, compulsorily acquire—

(a) so much of the subsoil of the land; or

(b) such servitudes or other heritable or moveable rights over the land,

as may be required for any purpose for which that land may be acquired under that section.

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

(3) Where the authorised undertaker acquires subsoil or a right over land under subsection (1) above, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) Accordingly, section 90 of the 1845 Lands Act (which provides that the owner of a house, building or manufactory who is willing to sell the whole property cannot be required to sell only part) shall not apply to any compulsory acquisition under this section or under section 18 below.

(5) Subject to subsections (6) and (7) below, the Lands Clauses Acts, as incorporated with this Act, shall have effect with the modifications necessary to make them apply to the compulsory acquisition of new rights under this section or under section 18 below as they apply to the compulsory acquisition of land.

(6) As so having effect, references in those Acts to land shall be treated as, or as including, references to new rights or to the land over which new rights are to be exercisable.

(7) Section 61 of the 1845 Lands Act (estimation of purchase money and compensation) shall apply to the compulsory acquisition of such a right as if for the words from “value” to “undertaking” there were substituted the words “extent (if any) to which the value of the land in or over which the right is to be acquired is depreciated by the acquisition of the right”.

18 Purchase of specific new rights over land

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

(2) The powers conferred by this section are additional to the powers conferred by section 17 above.

(3) This section is subject to sections 31 and 33 below.

19 Rights in roads or public places

- (1) The authorised undertaker may enter upon and appropriate so much of the subsoil of, or air-space over, any road or public place that is authorised to be compulsorily acquired under section 16 above as may be required for the purposes of the authorised works and may use the subsoil or air-space for those purposes or any other purpose connected with or ancillary to its railway undertaking.
- (2) The powers conferred by subsection (1) above may be exercised in relation to a road or place without the authorised undertaker being required to acquire any part of the road or place or any servitude or other right in relation to it.
- (3) The authorised undertaker shall not be required to pay compensation for the exercise of the powers conferred by subsection (1) above where the road or place is a public road; but where the road or place is not a public road, any person who—
 - (a) is an owner or occupier of land in respect of which the power conferred by subsection (1) above is exercised without the authorised undertaker acquiring any part of that person's interest in the land; and
 - (b) suffers loss by reason of the exercise of that power;shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.
- (4) Subsection (2) above shall not apply in relation to—
 - (a) any subway or underground building; or
 - (b) any cellar, vault, arch or other construction in or on a road which forms part of a building fronting onto the road or place.
- (5) For the purposes of section 28 of the Land Registration (Scotland) Act 1979 (c.33), subsection (1) above shall be taken to create a real right over the land referred to in that section without any necessity to record a deed in the Register of Sasines or to register the right.

20 Temporary use of land for construction of works

- (1) The authorised undertaker may, in connection with the carrying out of the authorised works—
 - (a) enter upon and take temporary possession of any of the land specified in columns (1), (2) and (3) of schedule 6 to this Act for the purpose specified in relation to that land in column (4) of that schedule relating to the authorised works specified in column (5) of that schedule;
 - (b) remove any apparatus, buildings or vegetation from that land; and
 - (c) construct temporary works (including the provision of apparatus or means of access) and buildings on the land.
- (2) Not less than 28 days before entering upon and taking temporary possession of land under this section the authorised undertaker shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) The authorised undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this section after the end of the period of one year beginning with the date of completion of the work specified in relation to that land in column (5) of schedule 6 to this Act.

- (4) Before giving up possession of land of which temporary possession has been taken under this section, the authorised undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the authorised undertaker shall not be required to replace a building removed under this section.
- (5) The authorised undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this section for any loss or damage arising from the exercise in relation to the land of the powers conferred by this section.
- (6) Any dispute as to a person's entitlement to compensation under subsection (5) above, or as to the amount of the compensation, shall be determined under the 1963 Act.
- (7) Without prejudice to section 24 below, nothing in this section shall affect any liability to pay compensation under section 6 or 36 of the 1845 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under subsection (5) above.
- (8) The powers of compulsory acquisition of land conferred by this Act shall not apply in relation to any land of which temporary possession has been taken under subsection (1) above, except that the authorised undertaker shall not be precluded from acquiring new rights over any part of that land under section 17 or 18 above.
- (9) Where the authorised undertaker takes possession of land under this section, it shall not be required to acquire the land or any interest in it.
- (10) In this section "building" includes any structure or erection.

Compensation

21 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) above "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.

22 Set-off of betterment against compensation

- (1) In determining the amount of compensation or purchase money payable to any person in respect of an interest in land acquired under this Act in a case where—
 - (a) the person has an interest in any other land contiguous with or adjacent to the land so acquired; and

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

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

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

23 Application of legislation relating to certificates of appropriate alternative development

- (1) Section 25 of the 1963 Act (which provides for a planning authority to certify classes of development which it considers appropriate for land subject to compulsory purchase powers), shall apply to any land subject to compulsory purchase powers under this Act.
- (2) Accordingly, section 30(2)(a) of the 1963 Act (which defines the circumstances in which an interest in land is to be taken as an interest to be acquired by an authority possessing compulsory purchase powers) shall be taken to have effect in relation to any compulsory purchase authorised by this Act as if for the words “either House of Parliament relating to petitions for Private Bills” there were substituted the words “the Scottish Parliament”.

24 No double recovery

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

Supplementary

25 Acquisition of part of certain properties

- (1) This section shall apply instead of section 90 of the 1845 Lands Act in any case where—
- (a) a notice to treat is served on a person (“the owner”) under that Act (as incorporated with this Act by section 50 below) 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 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 determines that the land subject to the notice to treat can be taken—
- (a) without material detriment to the remainder of the land subject to the counter-notice; or
 - (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity or convenience of the house,
- the owner shall be required to sell the land subject to the notice to treat.
- (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 or 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 determines that—
- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
 - (b) the material detriment is confined to a part of the land subject to the counter-notice,
- the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, 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 determines 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 or convenience of the house; and
 - (b) that the material detriment is not confined to a part of the land subject to the counter-notice,
- the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice 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 than that specified in the notice, the authorised undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so it shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.
- (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.

26 Extinction or suspension of private rights of way

- (1) Subject to subsection (6) below, 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 28 below, whichever is sooner.
- (2) Subject to subsection (7) below, all private rights of way over land of which the authorised undertaker takes temporary possession under this Act shall be suspended and unenforceable for as long as the authorised undertaker remains in lawful possession of the land.
- (3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this section shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.
- (4) This section does not apply in relation to any right of way to which section 224 or 225 of the 1997 Act (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of schedule 7 to this Act applies.
- (5) Subsections (1) and (2) above shall have effect subject to—
 - (a) any notice given by the authorised undertaker before the completion of the acquisition of the land or the authorised undertaker's entry on or temporary possession of the land (as the case may be) that either or both 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) above and whether before or after this Act comes into force) between the authorised undertaker and the person entitled to the private right of way.
- (6) The authorised undertaker may, before whichever is the sooner of the events specified in paragraphs (a) and (b) of subsection (1) above, determine that any right of way specified in the determination is capable of being exercised compatibly with the construction and maintenance of the relevant part of the authorised works, and that subsection (1) above shall not apply to that right.

- (7) The authorised undertaker may, at any time before or after temporary possession of any land is taken, determine that any right of way specified in the determination is capable of being exercised, in whole or to such extent as may be specified in the determination, compatibly with the temporary use of the land under this Act, and that subsection (2) above shall not apply to that right or shall only apply to the extent specified in the determination.
- (8) Notice of a determination under this section shall be posted on the land mentioned in subsection (1) or, as the case may be, (2) above—
- (a) in the case of a determination under subsection (6) above, for the period of 28 days after the sooner of the events specified in paragraphs (a) and (b) of subsection (1) above; and
 - (b) in the case of a determination under subsection (7) above, throughout the period that the authorised undertaker remains in possession of the land.
- (9) This section does not apply to any of the land specified in columns (1), (2) and (3) of Part 2 of schedule 5 to this Act (land outside the limits of deviation in which rights are to be acquired).

27 Power to enter land for survey, etc.

- (1) The authorised undertaker may, in relation to any land within the limits of deviation, the limits of land to be acquired or used or the limits of safeguarding, for the purposes of this Act—
- (a) survey or investigate the land;
 - (b) without prejudice to the generality of paragraph (a) above, make trial holes in such positions as the authorised undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove water and soil samples;
 - (c) without prejudice to the generality of paragraph (a) above, carry out archaeological investigations on the land;
 - (d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the authorised works;
 - (e) place on, leave on and remove from the land apparatus for use in connection with the exercise of any power conferred by paragraphs (a) to (d) above; and
 - (f) enter on the land for the purpose of exercising any power conferred by paragraphs (a) to (e) above.
- (2) No land may be entered, or equipment placed or left on or removed from land, under subsection (1) above, unless—
- (a) on the first occasion at least seven days’; and
 - (b) on subsequent occasions not less than three days’,
- notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this section on behalf of the authorised undertaker—
- (a) shall, if so required, before or after entering the land produce written evidence of authority to do so; and
 - (b) may enter with such vehicles and equipment as are necessary for the purpose of exercising any of the powers conferred by subsection (1) above.

- (4) No trial hole shall be made under this section in a carriageway or footway without the consent of the road works authority, but such consent shall not be unreasonably withheld.
- (5) The authorised undertaker shall make compensation for any damage occasioned, by the exercise of the powers conferred by this subsection, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under the 1963 Act.

28 Further powers of entry

- (1) At any time after notice to treat has been served in respect of any land which may be purchased compulsorily under this Act the authorised undertaker may enter on and take possession of the land.
- (2) No land may be entered under subsection (1) above unless at least 28 days' notice has been given to the owner and occupier of the land specifying the land, or part of the land, of which possession is to be taken.
- (3) The authorised undertaker may exercise the powers of this section without complying with sections 83 to 89 of the 1845 Lands Act before such exercise.
- (4) Compensation for the land of which possession is taken under this section, and interest on the compensation awarded, shall be payable as if sections 83 to 89 of the 1845 Lands Act had been complied with.

29 Persons under disability may grant servitudes, etc.

- (1) Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may grant to the authorised undertaker a servitude, right or privilege required for any of the purposes of this Act in, over or affecting any such lands.
- (2) A person may not under this section grant a servitude, right or privilege of water in which persons other than the grantor have an interest.
- (3) The provisions of the Lands Clauses Acts with respect to lands and feu duties or ground annuals shall, so far as applicable, apply to any grant under this section and to the servitudes, rights and privileges granted.

30 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) If on any application 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.
- (3) The certificate shall be deposited in the office of the Clerk of the Parliament, 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.

- (4) The Clerk of the Parliament shall keep every certificate deposited under this section with the other documents to which it relates.

31 Period for compulsory acquisition of land

- (1) The powers conferred by sections 16 and 18 above shall cease five years beginning on the date on which this Act comes into force.
- (2) Subsection (1) above shall not prevent the authorised undertaker from exercising the powers of section 16, 17 or 18 above so as to acquire any land, servitude or right as respects which a notice to treat has been served before the date mentioned in that subsection.
- (3) Subsection (1) above shall not prevent the authorised undertaker from remaining in possession of land under section 20 above after the date mentioned in that subsection if the land was entered, and possession of it was taken, on or before that date.

32 Time limit on validity of notices to treat

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

33 Extension of time

On the application of the authorised undertaker the Scottish Ministers may, by order, extend, or further extend, the period referred to in section 31 above.

34 General vesting declarations

- (1) Section 195 of, and Schedule 15 to, the 1997 Act shall apply to the compulsory acquisition of land under this Act as if this Act were a compulsory purchase order so as to enable the authorised undertaker to vest by general vesting declaration any land authorised to be compulsorily acquired under this Act.
- (2) The notice required by paragraph 2 of that Schedule (as so applied) shall be a notice—
 - (a) that this Act has received Royal Assent;
 - (b) containing the particulars specified in sub-paragraph (1) of that paragraph;
 - (c) published and served in accordance with the requirements of paragraph 6 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42); and
 - (d) given at any time after this Act comes into force.

PART 3

MISCELLANEOUS AND GENERAL

35 Power to fell, etc. trees or shrubs

- (1) The authorised undertaker may fell, or lop or cut back the roots of, any tree or shrub near any part of the authorised works (or land proposed to be used for the authorised works), if it reasonably believes such action to be necessary in order to prevent the tree or shrub—
 - (a) from obstructing or interfering with the construction, maintenance or operation of the authorised works or any apparatus used for the purposes of the authorised works; or
 - (b) from constituting a danger to persons using the authorised works.
- (2) In exercising the powers conferred by subsection (1) above, the authorised undertaker shall not do any unnecessary damage to any tree or shrub.
- (3) Any person who suffers loss or damage arising from the exercise of the powers conferred by this section shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.
- (4) The following, namely—
 - (a) an order under section 160(1) of the 1997 Act (tree preservation orders); and
 - (b) section 172(1) of that Act (which prohibits the doing in a conservation area of any act which might be prohibited by a tree preservation order),shall not apply to any exercise of the powers conferred by subsection (1) above.

36 Powers of disposal, agreements for operation, etc.

- (1) The authorised undertaker may enter into all or any of the agreements described in subsections (2), (3) and (4) below.
- (2) The authorised undertaker may enter into and carry into effect transfer agreements with respect to the transfer to and vesting in another person of all or any of the functions of the authorised undertaker under this Act, including the powers conferred by this section.
- (3) Either separately or as part of any transfer agreement, the authorised undertaker may—
 - (a) enter into and carry into effect agreements, on such terms and conditions as it thinks fit, to sell, lease, excamb, charge or otherwise dispose of the whole or any part of the undertaking consisting of the authorised works and any land held for the purposes of, or in connection with, those works; and
 - (b) enter into agreements with respect to the funding, construction, maintenance and operation of the authorised works and any matter consequential thereon or incidental or ancillary thereto.
- (4) The authorised undertaker shall be bound to comply with any restrictions, liabilities and obligations arising out of any undertaking or commitment given by or on behalf of tie or any other authorised undertaker, whether before or after the passing of this Act.
- (5) The exercise of any power conferred by this Act by any authorised undertaker pursuant to a transfer agreement shall be subject to the same restrictions, liabilities and obligations as would apply if that power were exercised by the authorised undertaker making the transfer.

- (6) A transfer agreement may include such supplementary, incidental, transitional and consequential provisions as the authorised undertaker may consider to be necessary or expedient.
- (7) Within 21 days of the completion of any transfer agreement the authorised undertaker making the transfer shall serve notice on the Scottish Ministers stating the name and address of the transferee and the date when the transfer is to take effect.
- (8) If an authorised undertaker fails, without reasonable excuse, to comply with the obligation imposed by subsection (7) above it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) On the completion of a transfer agreement the effect of which is to—
 - (a) vest any of the authorised works in Network Rail; or
 - (b) transfer to Network Rail the powers conferred by this Act relating to any of those works,

no further agreement may be made under this section in relation to the works or powers vested by the transfer agreement.

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

“functions” includes powers, duties and obligations;

“transferee” means a person to whom all or any of the property or functions of the authorised undertaker have been transferred by virtue of a transfer agreement; and

“transfer agreement” means an agreement entered into under subsection (2) above.

37 Statutory undertakers, etc.

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

38 Ancient monuments

- (1) This section has effect in relation to the Ancient Monuments and Archaeological Areas Act 1979 (c.46).
- (2) Section 2 (Control of works affecting scheduled monuments) of that Act shall not apply to any of the authorised works which affects the scheduled monument known as the Cat Stane or the site forming part of that monument (together called “the Cat Stane”).
- (3) The powers of entry conferred by section 6(1) (Entry to ascertain condition of scheduled monument), and section 26 (Entry to record matters of archaeological or historical interest) shall not be exercisable in relation to land used for or in connection with the carrying out of any of the authorised works which affects the Cat Stane.
- (4) The provisions of that Act with respect to the functions of a person as a guardian by virtue of that Act, and the provisions of any agreement under section 17 (Agreement concerning ancient monuments and land in their vicinity), shall have effect subject to the powers conferred by this Act with respect to works which affect the Cat Stane.
- (5) Section 19 (Public access to monuments under public control) shall not apply in relation to a monument which is closed by the authorised undertaker for the purposes of, in connection with, or in consequence of the carrying out of any of the authorised works which affects the Cat Stane.

- (6) Regulations under section 19(3) or (4A) (which may include provision prohibiting or regulating any act or thing which would tend to injure or disfigure a monument or its amenities or disturb the public in their enjoyment of it) shall not apply to anything done in exercise of the powers conferred by this Act with respect to works which affect the Cat Stane.
- (7) The power conferred by section 19(6) shall not be exercisable so as to prevent or restrict the exercise of the powers conferred by this Act with respect to works which affect the Cat Stane.
- (8) In section 25 (Advice and superintendence by Secretary of State)—
 - (a) subsection (2) shall not authorise the superintendence of the carrying out of any of the authorised works which affects the Cat Stane, and
 - (b) subsection (3) shall not apply in relation to advice given in connection with the carrying out of any of those works.
- (9) Section 28 (Offence of damaging certain ancient monuments) shall not apply to anything done in the exercise of the powers conferred by this Act with respect to works which affect the Cat Stane.
- (10) Section 35 (Notice required of operations in areas of archaeological importance) shall not apply to operations carried out in exercise of the powers conferred by this Act with respect to works which affect the Cat Stane.
- (11) Section 39(1) (Power to investigate in advance of operations notice any site which may be acquired compulsorily) shall have effect as if operations carried out in exercise of the powers conferred by this Act with respect to works which affect the Cat Stane were exempt works for the purposes of that provision.
- (12) Section 42(1) (Restrictions on use of metal detectors) shall not apply to the use of a metal detector for the purposes of or in connection with the exercise of the powers conferred by this Act with respect to works which affect the Cat Stane.
- (13) Section 42(3) shall not apply to the removal of objects discovered by the use of a metal detector for the purposes of or in connection with the exercise of the powers conferred by this Act with respect to works which affect the Cat Stane.

39 Listed buildings and conservation areas

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

40 Saving for town and country planning

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

- (2) In their application to development authorised by this Act, article 3 of, and Class 29 in Part 11 of Schedule 1 to, the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I. 1992/223) (which permit development authorised by (among other enactments) any Act of the Parliament which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the date on which this Act comes into force.
- (3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of the authorised works or the substitution of new works therefor.

41 Interpretation of sections 42 and 43

- (1) In sections 42 and 43 below—

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

- (a) a financial support contract is in force; and
- (b) financial obligations under the financial support contract relating to the provision of the authorised works remain to be discharged;

“developer contribution” means a developer contribution obtained under section 42(4) below;

“financial support contract” means—

- (a) an agreement under which a party to the agreement makes a commitment to—
 - (i) procure funding for the provision of the authorised works;
 - (ii) approve any of the relevant planning authorities incurring expenditure or entering into any financial obligation for that purpose;
- (b) a contract under which a party to the contract is obliged to provide money to pay for providing the authorised works and the authorised undertaker is obliged to pay interest or otherwise give monetary consideration for that money; or
- (c) a contract under which a party to the contract is obliged to provide, or to procure the provision of, all or part of the authorised works for a consideration all or part of which is represented by the transfer or grant to that person of assets or benefits in either case other than money;

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

“relevant planning agreement” means an agreement entered into by a planning authority under section 75 of the 1997 Act in connection with land on which any development can be expected to benefit from or be enhanced by the provision of the authorised works.

- (2) For the purposes of subsection (1) above and of sections 42 and 43 below the relevant planning authorities are the City of Edinburgh Council and West Lothian Council.

42 Planning agreements

- (1) Section 75 of the 1997 Act, section 69 of the Local Government (Scotland) Act 1973 (c.65) and Part 3 of the Local Government in Scotland Act 2003 (asp 1) shall, in their application to the relevant planning authorities, have effect in accordance with the following provisions of this section.
- (2) Subject to subsections (5) to (8) below, a relevant planning agreement may include provision relating to, or to development supporting, or otherwise connected with, the authorised works.
- (3) A relevant planning authority shall not be precluded from entering into a relevant planning agreement which includes provision relating to, or to development supporting, or otherwise connected with, the authorised works by reason only of the fact that all or some of the authorised works are located outwith the local government area of the planning authority concerned.
- (4) Subject to subsections (5) to (8) below, in any relevant planning agreement made pursuant to this section financial provisions relating to the authorised works may require the payment of developer contributions towards the cost of providing the authorised works or any development relating to, supporting or otherwise connected with the authorised works.
- (5) The developer contributions obtained by the relevant planning authorities towards the cost of providing the authorised works shall not in aggregate exceed the total of the sums necessary for the purpose of providing the authorised works.
- (6) No developer contribution under subsection (4) above shall be required after the expiry of 30 years after the opening for public use of the railways comprising Works Nos. 1, 1A, 2, 3A, 3B, 4, 4A, 5 and 6.
- (7) For the purposes of this section and section 43 below the sums necessary for the purpose of providing the authorised works include all sums from time to time payable for that purpose, and (without prejudice to that generality) include interest payments, loan charges and sums payable under or in consequence of any financial support contract.
- (8) Accordingly, during the period specified in subsection (6) above developer contributions may be required at any time during the currency of a loan agreement or a financial support contract.
- (9) A requirement for developer contributions does not amount to the raising of money by making a levy or imposition within the meaning of section 22(7) of the Local Government in Scotland Act 2003 (asp 1).

43 Application of developer contributions

- (1) A relevant planning authority shall secure that any developer contribution it obtains towards the cost of providing the authorised works is paid to the authorised undertaker within 12 months of its receipt.
- (2) A developer contribution that is not paid to the authorised undertaker within 12 months of its receipt as required by subsection (1) above shall on the expiry of that period be repayable to the person from whom it was obtained.

44 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.

45 Appropriate assessment

The Parliament having made an appropriate assessment of the authorised works as authorised by this Act, regulation 60 of the Conservation (Natural Habitats, &c.) Regulations 1994 (SI 1994/2716) shall not apply to any planning permission which relates to development authorised by this Act and which is granted by article 3(1) of the Town and County Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/223) for the class of development described as permitted development in Part 11 of Schedule 1 to that Order.

46 Environmental mitigation

For the purpose of entering into any management agreement under section 49A of the Countryside (Scotland) Act 1967 (c.86) to secure the provision of environmental mitigation measures in respect of the authorised works, the authorised undertaker shall be deemed to have an interest in any land within the limits of deviation or the limits of land to be acquired or used which is required for such measures.

47 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.

48 Arbitration

- (1) Where under this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be determined by arbitration, the difference shall be referred to, and settled by, a single arbiter to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.
- (2) An arbiter appointed under this section shall be entitled to state a case for the opinion of the Court of Session pursuant to section 3 of the Administration of Justice (Scotland) Act 1972 (c.59).
- (3) Section 108 of the Housing Grants, Construction and Regeneration Act 1996 (c.53) (right to refer disputes to arbitration) and any regulations made under that section shall not apply to the authorised works.

49 Service of notices, etc.

- (1) A notice or other document required or authorised to be served on a person for the purposes of this Act may be served—
 - (a) by delivering it to that person;
 - (b) by leaving it at that person’s proper address; or
 - (c) by sending it by post to that person at that address.
- (2) A notice or document is duly served on a body corporate or a firm—
 - (a) in the case of a body corporate if it is served on the secretary or clerk of that body; and
 - (b) in the case of a firm, if it is served on a partner of that firm.
- (3) For the purposes of subsection (1) above and of paragraph 4 of Schedule 1 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 (S.I. 1999/1379), a letter is properly addressed to—
 - (a) a body corporate, if addressed to the body at its registered or principal office;
 - (b) a firm, if addressed to the firm at its principal office; or
 - (c) any other person, if addressed to the person at that person’s last known address.
- (4) Where for the purposes of this Act a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the person’s name or address cannot be ascertained after reasonable enquiry, the notice may be served by—
 - (a) addressing it to the person by name or by the description of “owner”, or as the case may be “occupier”, of the land (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.

PART 4

SUPPLEMENTARY

50 Incorporation of enactments

- (1) The following enactments (so far as applicable for the purposes of and not inconsistent with, or varied by, the provisions of this Act) are incorporated with this Act—
 - (a) the Lands Clauses Acts, except sections 120 to 124 and section 127 of the 1845 Lands Act;
 - (b) the 1845 Act, except sections 1, 7, 8, 9, 11, 12, 14 to 17, 19, 20, 22, 23, 25 to 37, 86 and 87; and
 - (c) in the Railways Clauses Act 1863 (c.92), Part I (relating to construction of a railway) except sections 13, 14 and 19.
- (2) In construing the enactments incorporated with this Act—

- (a) this Act shall be deemed to be the special Act;
- (b) the authorised undertaker shall be deemed to be the promoter of the undertaking or the company; and
- (c) the authorised works shall be deemed to be the works or the undertaking.

51 Interpretation

(1) In this Act—

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

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

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

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

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

“the ancillary works” has the meaning given by section 3 above;

“the authorised undertaker” means, in relation to any event or thing before this Act comes into force, the limited and at any time thereafter, the or such other person as is at that time designated as authorised undertaker in a transfer agreement made pursuant to section 36 above;

“the authorised works” means the works authorised by this Act;

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

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

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

“limits of deviation” means the limits so described on the Parliamentary plans;

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

“limits of safeguarding” means the limits so described on the Parliamentary plans;

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

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

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

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

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

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

“the scheduled works” has the meaning given by section 2 above;

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

“the tribunal” means the Lands Tribunal for Scotland.

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

52 Orders

- (1) The power of Scottish Ministers to make orders under section 33 above 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.

53 Crown Rights

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Scottish Ministers.
- (2) Without prejudice to the generality of the foregoing, nothing in this Act authorises the authorised undertaker to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description belonging to the Scottish Ministers, without their consent in writing.
- (3) A consent under subsection (2) above may be given unconditionally or subject to terms and conditions.

54 Short title

This Act may be cited as the Edinburgh Airport Rail Link Act 2005.

SCHEDULE 1
(introduced by section 2)

SCHEDULED WORKS

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

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

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

In the local government area of West Lothian—

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

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

In the local government area of the City of Edinburgh—

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

Work No. 2A—An access road commencing by a junction with the road (Work No. 2C) at a point 105 metres south-west of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing westwards and terminating at a point 25 metres east of the bridge carrying the M9 Spur over the Dalmeny Chord railway.

Work No. 2B—An access road commencing by a junction with the road (Work No. 2C) at a point 70 metres south-west of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing westwards and terminating at a point 140 metres south-west of that bridge.

Work No. 2C—A diversion of Queensferry Road (B800) commencing at a point in that road 75 metres north of the junction of Newmains Road with Queensferry Road, passing northwards and terminating at a point in the A8000 90 metres north of the centre of the roundabout at the junction of the M9 Spur with the A8000 and Queensferry Road (B800). Work No. 2C includes a bridge to carry the Dalmeny Chord railway over the proposed road.

Work No. 2D—An access road commencing by a junction with the road (Work No. 2C) at a point 225 metres north of the junction of Newmains Road with Queensferry Road (B800), passing northwards then eastwards and terminating at a point in the access road leading from Queensferry Road (B800) to Almondhill 230 metres east of the junction of that access road with Queensferry Road (B800).

Work No. 2E—An access road commencing by a junction with the road (Work No. 2D) at a point 75 metres south of the bridge carrying the Dalmeny Chord railway over Queensferry Road (B800), passing northwards then eastwards and northwards and terminating at a point 340 metres north of the north-eastern corner of No. 18 Almondhill Steading.

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

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

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

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

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

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

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

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

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

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

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

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

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

Work No. 4—A railway (3,829 metres in length and partly in tunnel) between the proposed station at Edinburgh Airport and Roddinglaw Junction commencing by a junction with Works Nos. 3A and 3B at their terminations, passing southwards and eastwards and terminating by a junction with the Edinburgh to Glasgow Main Line at a point 5 metres west of the bridge carrying Gogar Station Road over that railway. Work

No 4 includes a ventilation shaft occupying an area not exceeding 40 square metres between the termination of Works Nos. 3A and 3B and the point marked C on the Parliamentary plans, a station at Edinburgh Airport and bridges to carry the railway over Works Nos. 4D and 4E and a tunnel under Work No. 4A.

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

Work No. 4A—A railway (1,743 metres in length) at Roddinglaw Junction commencing by a junction with the Edinburgh to Glasgow Main Line at a point 5 metres east of the bridge carrying that railway over Freeland Road, passing eastwards over Works Nos. 4L and 4 and terminating by a junction with that railway at a point 105 metres west of the bridge carrying Gogar Station Road over that railway.

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

Work No. 4C—A road commencing at a point 131 metres north-west of the bridge carrying Eastfield Avenue over Gogar Burn, passing north-eastwards over that burn and Work No. 4 and terminating at a point in Gogar Bridge Road 90 metres east of the junction of Jubilee Road with Eastfield Avenue. Work No. 4C includes bridges to carry the road over the Gogar Burn and Work No. 4.

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

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

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

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

Work No. 4H—A road commencing at a point in Freeland Road [270] metres north-east of the bridge carrying the Glasgow to Edinburgh railway over that road, passing

southwards over Work No. 4 and terminating at a point in Gogarstone Road 150 metres south of the junction of that road with Glasgow Road (A8). Work No. 4H includes a bridge to carry the road over Work No. 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Work No. 5H—A road commencing by a junction with the road (Work No. 5G) at a point 175 metres north-west of the bridge carrying the Newbridge to South Queensferry

walkway over Wheatlands Road, passing south-eastwards and terminating at a point in that road 5 metres north-west of that bridge.

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

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

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

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

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

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

Work No. 5Q—A drain commencing at a point adjacent to No.3 Carlowrie Farm Cottages, passing southwards and terminating at a point in the existing drain 335 metres from its commencement.

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

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

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

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

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

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

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

SCHEDULE 2
(introduced by section 3)

ANCILLARY WORKS

- 1 Stations, buildings, platforms, junctions and stopping places.
- 2 Bridges, subways, stairs, lifts, escalators, roundabouts and means of access.
- 3 Junctions and communications with, and widening of, any road, path or way.
- 4 Works for the provision of apparatus, plant or machinery and for the accommodation of such works, including mains, sewers, pipes, drains, cables, lights, conduits and culverts.
- 5 Works for the strengthening, underpinning, protection, alteration or demolition of any building or structure.
- 6 Works or operations to stabilise the condition of any land or for the purposes of flood prevention.
- 7 Works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses.
- 8 Works to alter the position of any existing apparatus or any existing street furniture, including the alteration of the position of existing works of the sort described in paragraph 4 above.
- 9 Without prejudice to the generality of paragraph 8 above, works to alter the position of any railway track or other railway apparatus.
- 10 Landscaping, ecological and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works.
- 11 Works for the benefit or protection of premises affected by the authorised works.
- 12 The removal by the authorised undertaker of any works constructed by it pursuant to this Act which have been constructed as temporary works or which it no longer requires.
- 13 Such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the authorised works.

SCHEDULE 3
 (introduced by sections 9 and 13)

STOPPING UP AND DIVERSION OF ROADS

PART 1

ROADS TO BE PERMANENTLY STOPPED UP

<i>Sheet of Parliamentary plans (1)</i>	<i>Road to be stopped up (2)</i>	<i>Extent of stopping up (3)</i>	<i>Substitute to be provided or alternative (4)</i>
In the local government area of the City of Edinburgh –			
7, 8	Queensferry Road (A8000/B800)	Between points P1 and P2	Work No. 2C
7	Access road	Between points P3 and P4	Work No. 2D
9	Track between Almondhill Farm and Almondhill Steading	Between points P5 and P6	Works Nos. 2C, 2D, 2E
10	Burnshot Road	Between points P7 and P8	Work No. 2J
10	Newbridge to South Queensferry Cycleway	Between points P9 and P10	Work No. 2K
23, 24, 26	Newbridge to South Queensferry Cycleway	Between points P11 and P12	Works Nos. 5B, 5C, 5F
10, 26	Burnshot Road	Between points P13 and P14	Works Nos. 5G, 5H, 5J
26	Burnshot Road	Between points P15 and P16	Works Nos. 5G, 5P
25	Burnshot Road	Between points P17 and P18	Works Nos. 5G, 5P
11, 12, 26	Wheatlands Road	Between points P19 and P20	Work No. 5K
26	Wheatlands Road	Between points P21 and P22	Work No. 5H
18	Freelands Road	Between points P23 and P24	Works Nos. 4H, 4J
18	Gogarstone Road	Between points P25 and P26	Works Nos. 4H, 4J

<i>Sheet of Parliamentary plans (1)</i>	<i>Road to be stopped up (2)</i>	<i>Extent of stopping up (3)</i>	<i>Substitute to be provided or alternative (4)</i>
18	Roddinglaw Road	Between points P27 and P28	Work No. 4J
19	Roddinglaw Road	Between points P29 and P30	Works Nos. 4H, 4J, 4P
19	Track between Roddinglaw Road and Gogar Station Road	Between points P31 and P32	Works Nos. 4L, 4M
24	Standingstane Road	Between points P33 and P34	Works Nos. 5D, 5E, 5G, 5P
24	Road between Queensferry Road (A8000) and Standingstane Road	Between points P35 and P36	Work No. 5C
28	Castle Gogar Drive	Between points P37 and P38	Work No. 6B
29	Access track between Gogar roundabout and Meadowfield Farm	Between points P39, P40 and P41	Works Nos. 6B, 6D

PART 2

ROADS TO BE TEMPORARILY STOPPED UP

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

SCHEDULE 4
(introduced by section 15)

SAFEGUARDING WORKS

PART 1

LAND FOR SAFEGUARDING WORKS

<i>Location</i> (1)	<i>Sheet of Parliamentary plans</i> (2)	<i>Number of land shown on Parliamentary plans</i> (3)
In the local government area of West Lothian–		
Winchburgh Junction	1	746 to 752
Myre	2	753 to 763, 763a, 764 to 767, 767a, 768 to 772
Niddry Mains	3	773 to 790
Muiriehall Wood	4	791 to 795, 798
In the local government area of the City of Edinburgh–		
Muiriehall Wood	4	796, 797, 799 to 802
Swine Burn	5	803 to 814
Humbie	6	815 to 830
Wheatlands	11	831 to 835
River Almond	11, 12	836 to 838
River Almond	12	839 to 846
River Almond	12, 14	847
River Almond to Burnside Road	12, 13, 14, 15	849
Burnside Road	15	848
Edinburgh Airport – Main Runway to Eastfield Avenue	14, 15, 16	850
Eastfield Avenue	16	851 to 857

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on Parliamentary plans (3)</i>
Ingliston Mains	17	858 to 865
Easter Norton	18	866 to 875
Ashley Lodge	20	876 to 888
Standingstane Road	24	889, 889a, 890 to 897
Burnshot Road	25	898 to 901
Castle Gogar	28	902

PART 2

SAFEGUARDING WORKS: PROCEDURE

- 1 Safeguarding works may be carried out—
 - (a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or
 - (b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of five years beginning with the day on which that part of the authorised works is first opened for use.
- 2 For the purpose of determining how the powers of section 15 of this Act are to be exercised, the authorised undertaker may enter and survey any building falling within subsection (1) of that section and any land belonging to it and may affix to, place on, leave on and remove from such building or land apparatus for use in connection with such survey.
- 3 For the purpose of carrying out safeguarding works to a building under section 15 of this Act, the authorised undertaker may (subject to paragraphs 4 and 5 below)—
 - (a) enter the building and any land belonging to it; and
 - (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).
- 4 Before exercising—
 - (a) a right under section 15 of this Act above to carry out safeguarding works to a building;
 - (b) a right under paragraph 2 above to enter a building;
 - (c) a right under paragraph 3(a) above to enter a building or land ;or
 - (d) a right under paragraph 3(b) above to enter land,

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

5 Where notice is served under paragraph 4(a), (c) or (d) above, 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 48 of this Act.

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

7 Where—

- (a) safeguarding works to a building are carried out under section 15 of this Act; and
- (b) within the period of five years beginning with the day on which the part of the authorised works constructed in the vicinity of the building is first opened for use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the authorised works,

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

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

9 Any compensation payable under paragraph 7 above or under the Lands Clauses Acts shall be determined, in case of dispute, under the 1963 Act.

SCHEDULE 5
(introduced by sections 16, 17 and 18)

ACQUISITION OF LAND, ETC. OUTSIDE LIMITS OF DEVIATION

PART 1

ACQUISITION OF LAND

<i>Location</i> (1)	<i>Sheet of Parliamentary plans</i> (2)	<i>Number of land shown on plans</i> (3)	<i>Purposes for which land to be acquired</i> (4)
In the local government area of West Lothian– Myre	2	17a, 17b, 41	Provision of track and access for construction and thereafter for maintenance
In the local government area of the City of Edinburgh–			
Humbie	6, 7	98	Relocation of apparatus (subsoil only)
Humbie	7, 9	125	Relocation of apparatus (subsoil only)
Humbie	7	126, 136, 140	Relocation of apparatus (subsoil only)
Almondhill	9	148	Environmental mitigation
Almondhill	9	149	Relocation of apparatus (subsoil only)
Wheatlands	11, 12	194	Relocation of apparatus (subsoil only)
Edinburgh Airport – Main Runway	14, 15	291	Relocation of apparatus (subsoil only)
Edinburgh Airport – Main Runway	14, 15	291a, 300	Relocation of apparatus (subsoil only)
Gogar Bridge Road/Burnside Road/Eastfield Avenue	15,16	291b, 300	Relocation of apparatus (subsoil only)
Eastfield Avenue	16	293	Relocation of apparatus (subsoil only)

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which land to be acquired (4)</i>
Gogar Bridge Road/Burnside Road/Eastfield Avenue	16	300b, 300c, 300d, 300e, 300f	Relocation of apparatus (subsoil only)
Eastfield Avenue	16	302, 319, 320, 321, 330, 332, 333	Creation of compensatory floodplain
Ingliston Mains	16, 17	334	Creation of compensatory floodplain
Ingliston Mains	16, 17	334a	Replacement park and ride facilities
Eastfield Avenue	16, 27	335	Creation of compensatory floodplain
Glasgow Road (A8)	17	358a	Farm access
Ingliston Mains	17, 18	365a	Environmental mitigation
Easter Norton	18	366, 368	Relocation of apparatus (subsoil only)
Easter Norton	18	385a	Provision of track
Easter Norton	18	369a, 389	Environmental mitigation
Roddinglaw	18, 19	393	Environmental mitigation
Roddinglaw	19	456	Environmental mitigation
Roddinglaw	19, 21, 22	460	Environmental mitigation
Ashley Lodge	20	397	Environmental mitigation
Ashley Lodge	20	404a, 410a, 410b, 413a	Environmental mitigation
Ashley Lodge/Ratho Park Golf Course	20, 30, 31	743	Exchange land for Scottish Agricultural Science Agency
Gogar Station Road/Ratho Park Golf Course	22, 33	745	Exchange land for Scottish Agricultural Science Agency
Standingstone Road	24	559	Environmental mitigation
Standingstone Road	24	561, 586	Relocation of apparatus (subsoil only)
Carlowrie	24, 25	575, 576	Environmental mitigation

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which land to be acquired (4)</i>
Carlowrie	24, 26	580	Environmental mitigation
Carlowrie	24, 25, 26	587	Environmental mitigation
Carlowrie	25	591	Environmental mitigation
Carlowrie	26	568, 568a, 571	Relocation of apparatus (subsoil only)
Carlowrie	26	638, 638a	Environmental mitigation
Castle Gogar	27, 28	674, 674a	Environmental mitigation
Castle Gogar	28	681	Relocation of apparatus (subsoil only)
Castle Gogar	28	681a, 693, 694, 701	Environmental mitigation
Castle Gogar	28, 29	709	Relocation of apparatus (subsoil only)
Gogar	29	712, 713, 729, 734	Relocation of apparatus (subsoil only)
Ratho Park Golf Course	31, 32	744	Exchange land for Scottish Agricultural Science Agency

PART 2

ACQUISITION OF RIGHTS

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on Parliamentary plans (3)</i>	<i>Purposes for which rights may be acquired (4)</i>
In the local government area of the City of Edinburgh–			
Humbie	6, 7	98	Access for construction and thereafter maintenance
Humbie	7, 9	125	Access for construction and thereafter maintenance
Humbie	7	126, 136, 140	Access for construction and thereafter maintenance
Almondhill	9	149	Access for construction and thereafter maintenance
Wheatlands	11, 12	194	Access for construction and thereafter maintenance
Wheatlands	11	239	Access for construction and thereafter maintenance
River Almond	11, 12, 13	246	Access for construction and thereafter maintenance
River Almond	11, 12	246a	Access for construction and thereafter maintenance
River Almond	12	275a	Access for construction
River Almond	12	279a	Access for construction and thereafter maintenance
River Almond	12, 13	263a	Access for construction
Burnside Road/Eastfield Avenue/Eastfield Road	16	292a, 292b, 292c	Access for construction and thereafter maintenance
Gogar Bridge Road	16	300e, 300f	Access for construction
Easter Norton	18	366, 368	Access for construction and thereafter maintenance
Standingstone Road	24	561, 586	Access for construction and thereafter maintenance

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on Parliamentary plans (3)</i>	<i>Purposes for which rights may be acquired (4)</i>
Carlowrie	26	568, 568a, 571	Access for construction and thereafter maintenance
Castle Gogar	28	681	Access for construction and thereafter maintenance
Castle Gogar	28	705, 710, 711, 711a, 711b	Provision of road
Castle Gogar	28, 29	709	Access for construction and thereafter maintenance
Gogar	29	712, 713, 729, 734	Access for construction and thereafter maintenance
Ratho Park Golf Course	31	743a	Access to exchange land
Gogar Station Road	33	745a	Access to exchange land

SCHEDULE 6

(introduced by section 20)

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which temporary possession may be taken (4)</i>	<i>Authorised work (5)</i>
In the local government area of West Lothian–				
Winchburgh Junction	1	4, 5, 8	Access for construction	Works Nos. 1, 1A
Winchburgh Junction	1, 2	9a	Working space	Work No. 1
Winchburgh Junction	1	11	Working space and access for construction	Works Nos. 1, 1A
Myre	2	17, 34	Construction compound, working space and access for construction	Works Nos. 1, 1A, 1B
Myre	2	9b, 33, 37	Access for construction	Works Nos. 1, 1A
Myre	2	31	Working space and access for construction	Work No. 1
In the local government area of the City of Edinburgh–				
Humbie	7	102, 143	Construction compound, working space and access for construction	Works Nos. 2, 2A, 2B, 2C, 2D, 2E, 2F
Humbie	7	136, 140	Working space	Works Nos. 2, 2C, 2D, 2E
Almondhill	9	148a, 148b, 148c	Working space	Work No. 2G
Almondhill	9	150, 151	Access for construction	Work No. 2G
Almondhill	9, 10	156	Access for construction	Works Nos. 2, 2H, 3D, 5
Carlowrie	10	163, 179	Construction compound, working space and access for construction	Works Nos. 2, 2J, 2K
Carlowrie	10	169	River protection	Works Nos. 2, 2J, 2K

Schedule 6 – Land of which temporary possession may be taken

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which temporary possession may be taken (4)</i>	<i>Authorised work (5)</i>
Carlowrie	10	186, 187	Working space and protection of apparatus	Works Nos. 2J, 5G
Carlowrie	10, 26	164	Access for construction	Works Nos. 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H
Carlowrie	10, 11	190	Access for construction	Works Nos. 2, 2H-3D, 5
Carlowrie	10, 26	193	Construction compound, working space and access for construction	Works Nos. 5G, 5H
Wheatlands	11	198	Construction compound, working space and access for construction	Works Nos. 5, 5K
Wheatlands	11	194a, 205, 209, 237	Access for construction	Works Nos. 5, 5R
Wheatlands	11, 26	201	Working space and access for construction	Works Nos. 5, 5K
Wheatlands	11	201a, 203, 204, 204a	Working space and access for construction	Works Nos. 5, 5K, 5R
River Almond	12	243	Working space	Works Nos. 2, 5K, 2L
River Almond	11, 12, 13	246	Construction compound, working space and access for construction	Works Nos. 2, 3, 5
River Almond	11, 12	246a	Construction compound, working space and access for construction	Works Nos. 2, 3A, 3B, 2L, 3D, 3E, 3C, 5K
River Almond	12, 13	263	Archaeological works	Works Nos. 3A, 3B
River Almond	12	275, 278	Working space and access for construction	Works Nos. 3A, 3B, 3E, 3D, 3F
Edinburgh Airport – Main Runway	14, 15	291, 291a, 300	Working space and access for construction	Works Nos. 3A, 3B, 4, 4B, 4C

Schedule 6 – Land of which temporary possession may be taken

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which temporary possession may be taken (4)</i>	<i>Authorised work (5)</i>
Burnside Road/Eastfield Avenue	15, 16	291b	Working space and access for construction	Works Nos. 3A, 3B, 4, 4B, 4C, 4D, 4E, 6
Gogar Bridge Road	15, 16	300a	Construction compound and access for construction	Works Nos. 3A, 3B, 4
Burnside Road/Eastfield Avenue/ Eastfield Road	16	292a, 292b, 292c	Access for construction	Works Nos. 4, 4c
Burnside Road/Eastfield Avenue	16	300b, 300c, 300d	Working space and access for construction	Works Nos. 3A, 3B, 4
Eastfield Avenue	16	293, 302	Working space and access for construction	Works Nos. 4, 4C
Eastfield Avenue	16	301	River protection	Work No. 4D
Eastfield Avenue	16	319, 320, 321, 330, 332, 333	Working space and access for construction	Works Nos. 4, 6
Gogar Mains	27	335a	Access for construction	Works Nos. 3A, 3B, 4, 4B, 4C, 4D, 4E, 4F
Ingliston Mains	16,17	334, 334a, 339	Working space and access for construction	Works Nos. 4, 6
Ingliston Mains	16, 27	335	Working space and access for construction	Works Nos. 4, 6
Ingliston Mains	17	340, 341	Working space and access for construction	Work No. 4
Ingliston Mains	17	345, 348, 350, 353, 354, 358, 359, 360, 363	Working space	Works Nos. 4, 4F, 4G
Ingliston Mains	17, 18	365, 365a	Construction compound, working space and access for construction	Works Nos. 4, 4F, 4G
Easter Norton	18	375, 378	Construction compound, working space and access for construction	Works Nos. 4H, 4J, 4

Schedule 6 – Land of which temporary possession may be taken

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which temporary possession may be taken (4)</i>	<i>Authorised work (5)</i>
Easter Norton	18	379, 381, 385	Working space	Works Nos. 4, 4H
Easter Norton	18	382	Working space and access for construction	Works Nos. 4, 4H
Roddinglaw	19	416, 417, 422	Construction compound, working space and access for construction	Works Nos. 4A, 4L, 4M, 4N
Roddinglaw	19	453, 454, 455, 457	Working space and access for construction	Works Nos. 4, 4A, 4L
Ashley Lodge	20	397	Working space, access for construction and landscaping	Work No. 4P
Ashley Lodge	20	398	Access for construction	Work No. 4P
Ashley Lodge	20	402	Construction compound, working space and access for construction	Work No. 4P
Kellerstain	21	461	Working space and access for construction	Works Nos. 4, 4A
Gogar Station Road	22	465	Working space and access for construction	Works Nos. 4, 4A
Dalmeny	23	473	Working space and access for construction.	Works Nos. 5, 5B
Dalmeny	23	485, 487, 488	Construction compound, working space and access for construction	Works Nos. 5, 5B
Standingstane Road	24	525, 538, 586	Construction compound, working space and access for construction	Works Nos. 5, 5C, 5F, 5B
Standingstane Road	24	500, 501, 502, 503, 504, 513, 543, 561	Working space and access for construction	Works Nos. 5, 5B
Standingstane Road	24	540	Plant and materials storage and private access	Works Nos. 5E, 5D
Carlowrie	25	577	Working space and access for construction	Works Nos. 5G, 5P
Carlowrie	25	605	Working space	Work No. 5G

Schedule 6 – Land of which temporary possession may be taken

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which temporary possession may be taken (4)</i>	<i>Authorised work (5)</i>
Carlowrie	24, 25	586a	Access for construction	Works Nos. 5G, 5P
Carlowrie	26	613, 621, 622	Working space and access for construction	Works Nos. 5G, 5H, 5J
Carlowrie	26	568, 568a, 571	Working space and access for construction and re-location of apparatus	Works Nos. 5, 5F, 5G
Carlowrie	26	632, 639, 639a, 640	Access for construction	Works Nos. 5, 5G, 5A, 5B, 5C, 5D, 5E, 5F
Carlowrie	26	631, 633	Construction compound, working space and access for construction	Works Nos. 5G, 5H, 5J
Gogar Mains	27	662, 673	Construction compound, working space and access for construction	Works Nos. 6, 6A
Gogar Mains	27	335a	Access for construction	Works Nos. 6, 6A
Castle Gogar	27, 28	674	Access for construction	Work No. 6
Castle Gogar	28	681	Working space	Work No. 6
Castle Gogar	28	675, 677, 678, 680	Working space and access for construction	Works Nos. 6, 6B, 6C
Castle Gogar	28, 29	709	Working space	Work No. 6
Gogar	29	721, 728	Construction compound, working space and access for construction	Works Nos. 6, 6D, 6E
Gogar	29	712, 713, 729, 734	Working space	Work No. 6

Schedule 6 – Land of which temporary possession may be taken

<i>Location (1)</i>	<i>Sheet of Parliamentary plans (2)</i>	<i>Number of land shown on plans (3)</i>	<i>Purposes for which temporary possession may be taken (4)</i>	<i>Authorised work (5)</i>
Gogar	29	726, 727, 729a, 730, 731, 732	Access for construction	Works Nos. 4, 4B, 4C, 4D, 4E, 4F, 6A, 6B, 6C, 6D, 6D

SCHEDULE 7

(introduced by section 37)

STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc. on land acquired

- 1 (1) Subject to the provisions of this schedule, sections 224 to 227 of the 1997 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) shall apply in relation to any land which has been acquired under this Act, or which is held by the authorised undertaker and is appropriated or used (or about to be used) by it for the purposes of this Act or for purposes connected with this Act.
- (2) All such other provisions of the 1997 Act as apply for the purposes of the provisions applied by paragraph 1 above (including sections 228 to 231, which contain provisions consequential on the extinguishment of any rights under sections 224 and 225, and sections 232(2) to (4), 233 and 235, which provide for the payment of compensation) shall have effect accordingly.
- (3) In the provisions of the 1997 Act, as applied by sub-paragraphs (1) and (2) above—
 - (a) references to the purpose of carrying out any development with a view to which land was acquired or appropriated are references to the purpose of carrying out the authorised works; and
 - (b) references to land acquired or appropriated as mentioned in section 224(1) of the 1997 Act are references to land acquired, appropriated or used as mentioned in sub-paragraph (1) above.
- (4) Where any apparatus of a utility undertaker or of a public telecommunications operator is removed in pursuance of a notice or order given or made under section 224, 225 or 226 of the 1997 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the authorised undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.
- (5) Sub-paragraph (4) above shall not apply in the case of the removal of a public sewer, but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—
 - (a) the owner or occupier of premises the drains of which communicated with that sewer; or
 - (b) the owner of a private sewer which communicated with that sewer,shall be entitled to recover from the authorised undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the person's drain or sewer communicate with any other public sewer or with a private sewage disposal plant.
- (6) The provisions of the 1997 Act mentioned in paragraphs 1 and 2 above, as applied by those paragraphs, shall not have effect in relation to apparatus as respects which Part IV of the 1991 Act applies.

(7) In this paragraph—

“electronic communications code network” means an electronic communications network within the meaning of the Communications Act 2003 (c.21) to which the electronic communications code applies;

“electronic communications code” means the code set out in schedule 2 to the Telecommunications Act 1984 (c.12);

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

“utility undertaker” means a person who is—

- (a) authorised by any enactment to carry on an undertaking for the supply of water;
- (b) a gas transporter; or
- (c) the holder of a licence under section 6 of the Electricity Act 1989 (c.29),

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

Apparatus of statutory undertakers, etc in stopped up roads

2 (1) Where a road is stopped up under section 9 of this Act any statutory undertaker whose apparatus is under, in, upon, over, along or across the road shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Act had not been passed.

(2) Where a road is stopped up under section 9 of this Act any statutory undertaker whose apparatus is under, in, upon, over, along or across the road may, and if reasonably requested to do so by the authorised undertaker, shall—

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

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

- (a) determined in accordance with section 144 (Sharing costs of necessary measures) of the 1991 Act and any regulations for the time being having effect under that section (as having effect by virtue of section 11 of this Act); and
- (b) borne by the authorised undertaker and the statutory undertaker in such proportions as may be prescribed by any such regulations.

(4) In this paragraph—

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

“relocation works” means works executed, or apparatus provided, under subparagraph (2); and

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

SCHEDULE 8

(introduced by section 39)

LISTED BUILDINGS AND CONSERVATION AREAS

- 1 (1) In the case of a listed building which was not such a building immediately before [2005]—
 - (a) section 6 of the Listed Buildings Act (restriction on works affecting listed buildings) shall not apply to works carried out in relation to the building in exercise of the powers conferred by Part 1 of this Act;
 - (b) to the extent that a notice issued in relation to the building under section 34(1) of that Act (enforcement) requires the taking of steps which would be rendered ineffective, or substantially ineffective, by works proposed to be carried out in exercise of the powers conferred by Part 1 of this Act, it shall not have effect or, as the case may be, shall cease to have effect;
 - (c) no steps may be taken in relation to the building under section 38(1) of that Act (execution of works specified in notice under section 34(1)) which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in paragraph (b) above; and
 - (d) no works may be executed for the preservation of the building under section 49 of that Act (urgent works to preserve unoccupied listed buildings) which would be rendered ineffective, or substantially ineffective, by such works as are mentioned in paragraph (b) above.
 - (2) If a building included in a conservation area and not a listed building was not included in a conservation area immediately before [2005], section 66 of the Listed Buildings Act (control of demolition in conservation areas) shall not apply to the demolition of the building in exercise of the powers conferred by Part 1 of this Act.
 - (3) Anything which, by virtue of section 1(4) of the Listed Buildings Act (objects or structures fixed to, or within the curtilage of, a building), is treated as part of a building for the purposes of that Act shall be treated as part of the building for the purposes of this paragraph.
- 2 Section 53 of the Listed Buildings Act (acts causing or likely to result in damage to listed buildings) shall not apply to anything done in exercise of the powers conferred by Part 1 of this Act with respect to works.
- 3 In this schedule—
- “the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9); and
- “building” and “listed building” have the same meanings as in the Listed Buildings Act.