



# Waverley Railway (Scotland) Act 2006

## 2006 asp 13

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 14th June 2006 and received Royal Assent on 24th July 2006**

An Act of the Scottish Parliament to authorise the reconstruction of a railway from a point in Midlothian immediately south of Newcraighall in the City of Edinburgh to Tweedbank in Scottish Borders, including stations at Shawfair, Eskbank, Newtongrange, Gorebridge, Stow, Galashiels and Tweedbank; to make provision concerning planning agreements and developer contributions relating to the railway; and for connected purposes.

### PART 1

#### WORKS, ETC.

##### *Works*

#### **1 Authority to construct works**

- (1) The authorised undertaker is hereby authorised to construct the authorised works, namely—
  - (a) the railway works referred to in section 2 below (“the railway works”); and
  - (b) the ancillary works referred to in section 3 below (“the ancillary works”).
- (2) The extent of the 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).
- (3) If the authorised undertaker commences construction of the authorised works it shall construct the whole of the railway comprising the railway works (including all the stations) referred to in schedule 1 to this Act.

#### **2 The railway works**

The railway 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.

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### 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 railway 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.

### 4 Permitted deviation within limits

In constructing or maintaining any of the authorised works the authorised undertaker may—

- (a) deviate laterally from the lines or situations shown on the Parliamentary plans within the limits of deviation for that work shown on those plans; and
- (b) deviate vertically from the levels shown on the Parliamentary sections—
  - (i) to any extent not exceeding 3 metres upwards; and
  - (ii) to any extent downwards as may be necessary or expedient.

### 5 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—
  - (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.

### 6 Construction and maintenance of new or altered roads

- (1) Each of Works Nos. 1C, 1D, 1G, 1H, 1J, 1K, 1L, 2B, 2C, 2D, 3E, 5A, 5B, 5D, 5E, 5F, 5G, 7A, 7B, 8A, 10B, 10D, 10E, 10F, 10G, 10H, 10K and 10L shall be completed to the reasonable satisfaction of the roads authority and 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.
- (2) Where a road is altered or diverted under this Act, the altered or diverted part of the road shall when completed to the reasonable satisfaction of the roads authority, unless otherwise agreed, be maintained—
  - (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.

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## **7 Vesting of private roads**

- (1) Each of the private roads comprising Works Nos. 1B and 7B shall, unless otherwise agreed between the authorised undertaker and—
  - (a) in the case of Work No. 1B the owner of the land abutting the north-west boundary of plot no. 40 on the Parliamentary plans in the local government area of Midlothian; and
  - (b) in the case of Work No. 7B the owner of Allanshaugh Farm, Allanshaugh, 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.

## **8 Private crossings**

- (1) If the authorised undertaker proceeds with the authorised works it shall make and maintain the private crossings described in columns (1), (2) and (3) of Part 1 of schedule 3 to this Act (“the continuing private crossings”).
- (2) The continuing private crossings shall be provided for the use of the persons (if any) entitled under any existing enactment to use the existing private crossings at those points, and those persons shall be entitled to use the continuing private crossings on the same basis in all respects as they are entitled to use the existing private crossings.
- (3) The authorised undertaker shall provide and maintain at each of the continuing private crossings such equipment as may from time to time be required for compliance with any requirement made by the Secretary of State under any enactment and, subject to such compliance, as may be agreed in relation to any crossing between the authorised undertaker and the person entitled to use the crossing.
- (4) Nothing in section 60 of the 1845 Act, as incorporated with this Act, shall require the authorised undertaker to provide any other private crossing for the purpose of making good any interruption caused by the authorised works to the use of any lands to which there attaches an entitlement to use any of the continuing private crossings.
- (5) The authorised undertaker shall stop up and discontinue the private crossings described in Part 2 of schedule 3 to this Act and on such stopping up and discontinuance all rights of way across those crossings shall be extinguished.
- (6) Any person who suffers loss by the extinguishment of any right of way over any of the private crossings described in Part 2 of schedule 3 to this Act shall be entitled to compensation to be determined, in case of dispute, under the 1963 Act.

## **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 4 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.
- (2) No part of a road specified in Part 1 of schedule 4 to this Act in relation to which a substitute road is specified in column (4) of that Part shall be stopped up under this

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section until the substitute has been completed to the reasonable satisfaction of the roads authority and is open for public use.

- (3) No part of a road specified in Part 1 of schedule 4 to this Act in relation to which neither a substitute road nor an alternative is specified in column (4) of that Part shall be stopped up under this section unless all the land which abuts it falls within one or more of the following categories, namely—
- (a) land to which there is no right of access directly from the road or part to be stopped up;
  - (b) land to which there is reasonably convenient access otherwise than directly from the road or part to be stopped up;
  - (c) land as respects which the owners and occupiers have agreed to the stopping up of the road or part; and
  - (d) land of which the authorised undertaker has taken possession under section 24(1) below.
- (4) 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.
- (5) 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.

### *Supplemental powers*

## **10 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 (2) below, prevent all persons from passing along the road.
- (2) 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.
- (3) Without prejudice to the generality of subsection (1) above, the authorised undertaker may temporarily stop up, alter or divert each of the roads specified in columns (1) and (2) of Part 2 of schedule 4 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, and may for any reasonable time—
- (a) divert the traffic from the road; and
  - (b) subject to subsection (2) above, prevent all persons from passing along the road.

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- (4) The authorised undertaker shall not exercise the powers conferred by this section—
  - (a) in relation to any road specified as mentioned in subsection (3) above, without first consulting the road works authority; and
  - (b) in relation to any other road, without the consent of the road works authority.
- (5) Consent under subsection (4)(b) above shall not be unreasonably withheld but may be given subject to such reasonable conditions as the road works authority may require.
- (6) Any question whether—
  - (a) consent under subsection (4)(b) above has been unreasonably withheld; or
  - (b) a condition imposed under subsection (5) above is unreasonable,shall be determined by arbitration.

## **11 Discharge of water**

- (1) The authorised undertaker may use any available watercourse or any public sewer or drain for the drainage of water, and for that purpose may—
  - (a) lay down, take up and alter pipes; or
  - (b) make openings into, and connections with the watercourse, sewer or drain, on any land within the limits of deviation or the limits of land to be acquired or used.
- (2) The authorised undertaker shall not discharge any water into any public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as the person may reasonably impose but shall not be unreasonably withheld.
- (3) The authorised undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld.
- (4) The authorised undertaker shall take such steps as are reasonably practicable to secure that any water discharged under the powers conferred by this section is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.
- (5) Any difference under this section arising between the authorised undertaker and a person who owns a public sewer or drain shall be determined by arbitration.
- (6) Nothing in this section shall affect the operation of Part IV of the 1991 Act.
- (7) In this section—

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

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

## **12 Safeguarding works to buildings**

- (1) The authorised undertaker may at its own expense and from time to time carry out such safeguarding works to any building any part of which is within 20 metres of any

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part of the authorised works 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 schedule 5 to this Act.
- (3) In this section and that schedule—
- (a) “building” includes any structure or erection 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; and
    - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

## PART 2

### LAND

#### *Powers of acquisition*

#### **13 Authority to acquire land**

- (1) Subject to subsection (2) and sections 27, 29 and 30(4) below, the authorised undertaker is hereby authorised to acquire compulsorily—
- (a) such of the land shown on the Parliamentary plans within the limits of deviation for the authorised works as—
    - (i) is described in the book of reference; and
    - (ii) 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 6 to this Act; and
    - (ii) may be required for the purposes specified in relation to that land in column (4) of that Part.
- (2) Notwithstanding subsection (1) above, the authorised undertaker does not have power to acquire compulsorily the land in Scottish Borders shown numbered 31 and 32 on sheet 33 of the Parliamentary plans.

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## **14 Acquisition of subsoil or rights**

- (1) In exercise of the powers conferred by section 13 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 rights over the land,as may be required for any purpose for which that land may be acquired under that section.
- (2) Rights acquired under subsection (1) above may be heritable or moveable, and may be created as new rights for the purpose of acquisition under this section.
- (3) Where the authorised undertaker acquires subsoil or a right over land under subsection (1) above, the authorised undertaker shall not be required to acquire an interest in the land which is greater than that right.
- (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 15 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 15 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 ”.

## **15 Purchase of specific new rights over land**

- (1) Subject to section 27 below, 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 6 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 14 above.

## **16 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 13 above as may be required for the purposes of the authorised works and may use the subsoil or air-space for those purposes.

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- (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 right in relation to it.
- (3) For the purposes of section 28 of the Land Registration (Scotland) Act 1979 (c. 33), the powers conferred by this section shall constitute a real right and shall be an overriding interest.
- (4) Any person, who is an owner or occupier of land in respect of which the power of appropriation conferred by subsection (1) above is exercised without the authorised undertaker acquiring any part of that person's interest in the land, and who 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.
- (5) 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.

## **17 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 7 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 buildings and vegetation from that land; and
  - (c) construct temporary works (including the provision of means of access) and buildings on the land.
- (2) Not less than 28 days before entering upon and taking 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 7 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.

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- (7) Without prejudice to section 20 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—
  - (a) interests in subsoil;
  - (b) new rights; or
  - (c) land within the limits of land to be acquired or used for any purpose specified in relation to that land in schedule 6 to this Act.
- (9) Where the authorised undertaker takes possession of land under this section, it shall not be required to acquire the land or any interest in it.
- (10) In this section “building” includes any structure or erection.

### Compensation

#### **18 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.

#### **19 Set-off of betterment against compensation**

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.

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## 20 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*

## 21 Acquisition of part of certain properties

- (1) This section shall apply instead of section 90 of the 1845 Lands Act in any case where
  - (a) a notice to treat is served on a person (“the owner”) under that Act (as incorporated with this Act by section 52 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

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- (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.

## **22 Extinction or suspension of 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 24 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.

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- (4) This section does not apply in relation to any right of way to which section 224 or 225 of the Town and Country Planning (Scotland) Act 1997 (c. 8) (extinguishment of rights of statutory undertakers etc.) applies.
- (5) Subsections (1) and (2) above shall have effect subject to any agreement made (whether before or after this Act comes into force) between the authorised undertaker and the person entitled to the private right of way.
- (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 6 to this Act (land outside the limits of deviation in which rights are to be acquired).

### **23 Power to enter land for survey, etc.**

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

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- (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.

## **24 Further powers of entry**

- (1) At any time after notice to treat has been served in respect of any land which may be purchased 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.
- (5) Nothing in this section affects the operation of section 48 of the Land Compensation (Scotland) Act 1973 (c. 56).

## **25 Persons under disability may grant servitudes, etc.**

- (1) Persons empowered by the Lands Clauses Acts to sell and convey or dispose of 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.

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## **26 Parliamentary plans and book of reference: adjustments agreed with landowners and correction of errors**

- (1) Where—
- (a) the authorised undertaker has entered into a binding obligation (“the obligation”) not to acquire any land within the limits of deviation or the limits of land to be acquired or used; and
  - (b) either the authorised undertaker or the owner desires to reflect that commitment by way of either amendment of, or addendum to, either or both the Parliamentary plans and the book of reference,
- the authorised undertaker or the owner of the land may (after giving the notice required by subsection (3) below) apply summarily to the sheriff under this section.
- (2) If the Parliamentary plans or the book of reference are inaccurate in—
- (a) their description of any land; or
  - (b) their statement or description of the ownership or occupation of any land,
- the authorised undertaker may (after giving the notice required by subsection (3) below) apply summarily to the sheriff for correction of such inaccuracy.
- (3) The notice required by subsections (1) and (2) above is 10 days' prior notice—
- (a) in the case of a notice by the authorised undertaker, to the owner, lessee and occupier of the land in question; and
  - (b) in the case of a notice by an owner, to the authorised undertaker and to any lessee or occupier of the land in question.
- (4) Any person to whom a notice has been given under subsection (1) or (2) above may, within the period of 10 days from the giving of the notice, give to the sheriff and the person who gave the notice a counter-notice in writing that the person disputes—
- (a) in the case of an application under subsection (1) above, that the proposed amendment accurately reflects the obligation; and
  - (b) in the case of an application under subsection (2) above, that there is an inaccuracy which may be amended under this section.
- (5) In relation to any application under this section which has not been the subject of a counter-notice, if it appears to the sheriff—
- (a) that the proposed amendment accurately reflects the obligation; or
  - (b) that the inaccuracy arose from mistake,
- as the case may be, the sheriff shall certify the fact accordingly.
- (6) A certificate relating to an application under subsection (2) above shall state in what respect any matter is misstated or wrongly described.
- (7) If any counter-notice is given pursuant to subsection (4) above, the sheriff shall, before making any decision on the application, cause a hearing to be held.
- (8) The certificate shall be deposited in the office of the Clerk of the Parliament.
- (9) On the making of the deposit required by subsection (8) above—
- (a) the Parliamentary plans and the book of reference shall be deemed to be corrected according to the certificate; and
  - (b) it shall be lawful for the authorised undertaker to take the land or, as the case may be, a right over the land and execute the works in accordance with the certificate.

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- (10) The Clerk of the Parliament shall keep every certificate deposited under this section with the Parliamentary plans or book of reference to which it relates.
- (11) An application under subsection (1) or (2) above may only be made in respect of land identified in the book of reference and on the Parliamentary plans.
- (12) In this section “the sheriff” means the sheriff principal of, or any sheriff appointed for, the sheriffdom of Lothian and Borders.

## **27 Period for compulsory acquisition of land**

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

## **28 Extension of time**

- (1) On the application of the authorised undertaker, the Scottish Ministers may, by order, extend, or further extend, the period referred to in subsection (1) of section 27 above provided that—
  - (a) such application is made prior to the expiry of the period or any extension to it; and
  - (b) the period referred to in that subsection, taken together with any extension to it, shall not exceed 10 years in total.
- (2) If the Scottish Ministers extend, or further extend, the period referred to in subsection (1) of section 27 above, subsection (2) of that section shall have effect as if, for the period referred to in it, there were substituted the extended, or further extended, period.
- (3) The power of the Scottish Ministers to make orders under subsection (1) above shall be exercisable by statutory instrument.
- (4) A statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of the Parliament.

## **29 Acquisition of land for Work No. 1B**

The authorised undertaker shall not construct Work No. 1B or acquire any land for that purpose if, before the authorised undertaker serves notice to treat or makes a general vesting declaration in respect of plot no. 40 on the Parliamentary plans in the local government area of Midlothian, there is in existence a private road capable of giving access from Work No. 1C to the CPL Distribution Depot at the former Monkton Hall Colliery, Danderhall.

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### **30 Acquisition of land for Works Nos. 1C and 1E**

- (1) Subject to subsection (2) below, as soon as may be after the opening for public use of Works Nos. 1C and 1E, the authorised undertaker shall transfer to the owner of the land abutting the northern boundary of the development land so much of the development land as is not permanently required by the authorised undertaker for the purpose of those works.
- (2) A transfer under subsection (1) above—
  - (a) may be subject to the creation for the benefit of the authorised undertaker of such servitudes or other rights in or over the land transferred as the authorised undertaker may require for the purpose of maintaining or operating the authorised works; and
  - (b) shall be for a consideration calculated as if the land were being transferred pursuant to section 120 of the 1845 Lands Act (which relates to the sale of superfluous lands by an acquiring authority) and determined in case of dispute by the tribunal.
- (3) Subsection (4) below shall have effect if before the authorised undertaker serves notice to treat or makes a general vesting declaration in respect of the development land there are in existence bridges in the same position as, and satisfying the authorised undertaker's requirements for—
  - (a) so much of Work No. 1C as comprises a bridge over the railway (Work No. 1); and
  - (b) Work No. 1E.
- (4) If this subsection has effect, the authorised undertaker shall not acquire or use so much of the development land or plots nos. 43 and 43a on the Parliamentary plans in the local government area of Midlothian as is required for the construction of Works Nos. 1C and 1E, but nothing in this subsection prevents the authorised undertaker from acquiring in or over the development land such servitudes or rights as the authorised undertaker may require for the purpose of maintaining or operating the authorised works.
- (5) In this section “the development land” means plots nos. 46 and 46a on the Parliamentary plans in the local government area of Midlothian.

## **PART 3**

### MISCELLANEOUS AND GENERAL

### **31 Power to fell, etc. trees or shrubs**

- (1) The authorised undertaker may fell, 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.

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- (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.

### **32 Powers of disposal, agreements for operation, etc.**

- (1) In addition to any thing the authorised undertaker may do by virtue of any enactment or rule of law, it shall be competent for the authorised undertaker to enter into, and carry into effect, in connection with the authorised works, any agreement that includes provision for the matters described in subsection (2).
- (2) The matters referred to in subsection (1) are—
  - (a) the transfer to and vesting in another person of all or any of the functions of the authorised undertaker under this Act, including the powers conferred by this section;
  - (b) the disposal of the whole or any part of the undertaking consisting of the authorised works and any land held for the purposes of, or in connection with, those works;
  - (c) the creation of any heritable security, charge or other encumbrance secured on the undertaking.
- (3) Any restrictions, liabilities or obligations to which the authorised undertaker is subject—
  - (a) under this Act; or
  - (b) under any undertaking or commitment given by, or on behalf of Scottish Borders Council or any other authorised undertaker, at any time, whether before or after the passing of this Act,shall (notwithstanding any enactment or rule of law) be equally binding on any authorised undertaker.
- (4) Within 21 days of the completion of any agreement providing for any matter described in subsection (2)(a), the authorised undertaker making the transfer shall serve notice on the Scottish Ministers stating the name and address of the transferee and the date when the transfer is to take effect.
- (5) If an authorised undertaker fails, without reasonable excuse, to comply with the obligation imposed by subsection (4) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) On the completion of an agreement the effect of which is to—
  - (a) vest any of the authorised works in Network Rail; or
  - (b) transfer to Network Rail the powers conferred by this Act relating to any of those works,

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

- (7) In subsection (1), an agreement entered into in connection with the authorised works includes any agreement—
- (a) with respect to the funding, construction, maintenance and operation of the authorised works and any matter consequential thereon or incidental or ancillary thereto; or
  - (b) which (whether separately or as part of any other agreement) contains such supplementary, incidental, transitional and consequential provisions as the authorised undertaker may consider to be necessary or expedient.
- (8) In this section, unless the context otherwise requires—
- “disposal” includes sale, lease, excambion and charge; and
- “functions” includes powers, duties and obligations.

### **33 Statutory undertakers, etc.**

The provisions of schedule 8 to this Act shall have effect in relation to the authorised works.

### **34 Arbitration**

- (1) Where under any provision of this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be determined by arbitration, then, unless otherwise provided, 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 1996 Act (right to refer disputes to adjudication) and any regulations made under that section shall not apply to any dispute under this Act (whether or not it is a dispute of the sort described in subsection (1) above).
- (4) Subsection (3) above does not affect the operation of the 1996 Act so far as applicable to any contract under which a contracting party other than the authorised undertaker is responsible for the construction or funding of the authorised works.
- (5) In this section “the 1996 Act” means the Housing Grants, Regeneration and Construction Act 1996 (c. 53).

### **35 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.

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- (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.

### **36 Listed buildings and conservation areas**

Schedule 9 to this Act (which makes provision for the disapplication or modification, in relation to the authorised works, of controls relating to listed buildings and buildings in conservation areas) shall have effect.

### **37 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.

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### **38 Interpretation of sections 39 and 40**

(1) In sections 39 and 40 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 39(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 railway 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 39 and 40 below the relevant planning authorities are Scottish Borders Council, Midlothian Council and City of Edinburgh Council.

### **39 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

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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 more than 30 years after the opening of the railway works for public use.
- (7) For the purposes of this section and section 40 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, 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).

#### **40 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 (whether by payment to the authorised undertaker or otherwise) applied for the purpose of providing the authorised works.
- (2) A developer contribution that is not within 12 months of its receipt by the relevant planning authority applied as required by subsection (1) above shall on the expiry of that period be repayable to the person from whom it was obtained.

#### **41 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.

#### **42 Method of vesting land**

- (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.

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- (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.

#### **43 Certification of plans, etc.**

- (1) As soon as practicable after the coming into force of this Act, the authorised undertaker shall submit copies of the book of reference, the Parliamentary plans and the Parliamentary sections to the Clerk of the Parliament for certification under this section.
- (2) On being satisfied as to the accuracy of documents submitted under subsection (1) above, the Clerk shall certify them as being, respectively the book of reference, Parliamentary plans and Parliamentary sections referred to in this Act.
- (3) A document certified under subsection (2) above shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **44 Registration of new rights**

- (1) A servitude or other right acquired by the authorised undertaker under section 14 or 15 above shall, unless otherwise expressly stated in the instrument by which it is created, be treated for all purposes as benefiting the land from time to time held by the authorised undertaker for the purposes of the authorised works.
- (2) Notwithstanding section 75 of the Title Conditions (Scotland) Act 2003 (asp 9), where a servitude falls to be treated as mentioned in subsection (1) above, the deed by which it is created shall be effective whether or not it is registered against the benefited property.

#### **45 Mitigation of environmental impacts**

- (1) The authorised undertaker shall employ all reasonably practicable means to ensure—
  - (a) that the environmental impacts of the construction and operation of the authorised works are not worse than the residual impacts identified in the environmental statement; and
  - (b) that—
    - (i) the additional environmental mitigation measures identified in the promoter's undertakings are carried out; or
    - (ii) the environmental impacts of the construction or operation of the authorised works are not worse than they would have been had the mitigation measures referred to in sub-paragraph (i) been carried out.
- (2) In this section—
 

“environmental statement” means the environmental statement submitted to the Parliament as an accompanying document with the Bill for this Act, as amended by “Waverley Railway Act: Further Environmental Information

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(February 2005)” and the “Addendum Environmental Statement: Stow Station (January 2006)”;

“the promoter's undertakings” means all undertakings given by Scottish Borders Council as Promoter of the Bill for this Act—

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

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

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

#### **46 Compliance with Code of Construction Practice and Noise and Vibration Policy**

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

(a) the authorised works are carried out in accordance with—

(i) the code of construction practice; and

(ii) any relevant local construction code,

as approved by the local planning authority and from time to time amended or replaced; and

(b) the noise and vibration policy, as from time to time amended or replaced, is applied to the use and operation of the authorised works.

(2) Neither the code of construction practice nor the noise and vibration policy shall be amended or replaced so as to reduce the standards of mitigation and protection provided for in the versions being amended or replaced.

(3) Schedule 10 has effect in relation to the approval, amendment, replacement and effect of the code of construction practice.

(4) In this section “noise and vibration policy” means the “Policy Paper on behalf of the Promoter in respect of Noise and Vibration” dated 28th November 2005, a copy of which has been lodged with the Clerk of the Parliament to be held with the accompanying documents relating to the Bill for this Act.

#### **47 Works affecting the River Tweed Special Area of Conservation**

(1) This section has effect in relation to the construction of the specified works, namely—

(a) Works Nos. 5, 5D, 6, 7, 7B, 8, 9 and 10; and

(b) all related works and operations.

(2) Paragraphs 2 to 7 of Part 1 of schedule 11 to this Act shall have effect in relation to the construction of the specified works at the sites identified in paragraph 1 of that Part.

(3) Regulation 60 of the Conservation (Natural Habitats, etc.) Regulations 1994 (SI 1994/2716) shall not apply to the works and operations described in Parts 1 and 2 of schedule 11 to this Act to the extent to which they have been the subject of appropriate assessment by the Scottish Parliament prior to the passing of the Bill for this Act.

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#### **48 Regulation of mitigation measures**

- (1) The requirements imposed by or pursuant to the following provisions, that is to say—
- (a) sections 45, 46 and 47 above;
  - (b) schedules 10 and 11 to this Act;
  - (c) any agreement under paragraph 6 of schedule 11; and
  - (d) any code of construction practice or local construction code approved, amended or replaced under either of those schedules,
- shall be enforceable, and the local planning authority shall have the duty to enforce them, as valid planning conditions.
- (2) For the purpose only of such enforcement, planning permission for the construction of the authorised works shall be deemed to have been granted under section 37 of the 1997 Act subject to the imposition of those conditions under section 41 of that Act.
- (3) The local planning authority shall appoint an Environmental Clerk of Works to monitor the carrying out by the authorised undertaker of the measures referred to in subsection (1).

#### **49 Application of the Crichton Down Rules**

In the event that the authorised undertaker compulsorily acquires land as authorised by section 13 above and that land is subsequently declared by the authorised undertaker to be surplus to the authorised undertaker's requirements for the provision of the authorised works, the authorised undertaker shall apply the rules set out in Scottish Development Department Circular 38 of 1992 (“Disposal of Surplus Government Land – the Crichton Down Rules”) as may be amended or superseded from time to time.

#### **50 Application of original enactments**

- (1) The provisions of the original enactments mentioned in schedule 12 to this Act shall apply to the authorised works as though for references in those provisions to any former railway there were substituted references to the whole or any part of the authorised works and as if any reference to the railway undertaker (however described) were a reference to the authorised undertaker.
- (2) Except as provided in subsection (1) above, nothing in this Act shall have the effect of applying the original enactments to the authorised works.
- (3) As from—
- (a) the acquisition of any land by the authorised undertaker, whether compulsorily or by agreement; or
  - (b) the entry on the land by the authorised undertaker under section 24 above,
- whichever is sooner, BRBR shall be discharged from any obligation to which it is subject in relation to that land under any statutory provision relating to the former railway.
- (4) In this section “BRBR” means BRB (Residuary) Limited (company no. 04146505) and its successors.

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## **51 Rights of the Scottish Ministers**

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Scottish Ministers.
- (2) Without prejudice to the generality of subsection (1) above, nothing in this Act authorises the acquisition of land (including any rights or interests in land) 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.

## **PART 4**

### **SUPPLEMENTARY**

## **52 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, 15, 17, 19, 20, 22, 23 and 25; 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) This Act shall be deemed to be the special Act for the purposes of the enactments incorporated by subsection (1) above.

## **53 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, at any time, Scottish Borders Council or such other person or persons in whom are vested at that time some or all of the functions conferred by this Act concerning the authorised works;
  - “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, together with the volume entitled “Book of Reference – Stow Station”, which was submitted to the Committee in connection with the Bill for this Act, a copy of which has been lodged with the Clerk of the Parliament to be held with the accompanying documents relating to the Bill for this Act;

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“code of construction practice” means the edition of the Code of Construction Practice (which sets out the measures to be employed in the construction of the authorised works so to mitigate the impact of those works) Version 7 dated 28th April 2006, a copy of which has been lodged with the Clerk of the Parliament to be held with the accompanying documents relating to the Bill for this Act;

“the Committee” means the Waverley Railway (Scotland) Bill Committee to which the Bill for this Act was referred;

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

“the continuing private crossings” has the meaning given by section 8(1) above;

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

“the existing private crossings” has the meaning given by section 8(2) above;

“the former railway” means any railway which prior to the passing of this Act was situated within the limits of deviation;

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

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

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

“Network Rail” means Network Rail Infrastructure Limited (Company No. 2904587 (England)) 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;

“the original enactments” means any enactment by which any former railway was authorised, and any other enactment of local application relating to any former railway;

“Parliamentary plans” means the plans submitted to the Parliament as accompanying documents with the Bill for this Act, together with the Stow maps, plans and sections;

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

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

“River Tweed Special Area of Conservation” means the special area of conservation designated, under Directive [92/43/EEC](#) on the Conservation of Natural Habitats and of Wild Flora and Fauna, with the SAC EU Code UK 0012691;

“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);

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

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

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“Stow maps, plans and sections” means the volume of the Parliamentary plans entitled “Maps, Plans and Sections – Stow Station”, which was submitted to the Committee in connection with the Bill for this Act, a copy of which has been lodged with the Clerk of the Parliament to be held with the accompanying documents relating to the Bill for this Act;

“Stow plan” means the plan forming part of the Stow maps, plans and sections;  
and

“the tribunal” means the Lands Tribunal for Scotland.

- (2) Except in relation to section 4 above, all directions, distances and lengths stated in any description of works, powers or lands in this Act shall be construed as if the words “ or thereby ” were inserted after each such direction, distance and length.

#### **54 Short title**

This Act may be cited as the Waverley Railway (Scotland) Act 2006.

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## SCHEDULE 1

(introduced by section 2)

### RAILWAY WORKS

In the local government areas of Midlothian and Scottish Borders a railway from the Millerhill Marshalling Yard in Midlothian to Tweedbank in Scottish Borders substantially following the route of the former Waverley railway, including stations at Shawfair, Eskbank, Newtongrange, Gorebridge, Stow, Galashiels and Tweedbank, and comprising—

In the local government area of Midlothian—

Railway between the Millerhill Marshalling Yard and Old Dalkeith Road—

**Work No. 1**—A railway (3,600 metres in length) commencing by joining the Niddrie North Junction-Bilston Glen line (Edinburgh Crossrail to Newcraighall) at a point in the Millerhill Marshalling Yard 7 metres south-west of the south-western corner of the bridge carrying Whitehall Road over the northern rail entrance to the Millerhill Marshalling Yard and terminating at a point 50 metres north of the bridge carrying Old Dalkeith Road (A68) over the Penicuik-Musselburgh Foot & Cycleway. Work No. 1 includes a bridge under the City of Edinburgh Bypass (A720) and a culvert to carry Dean Burn under the intended railway. Work No. 1 includes a station at Shawfair.

**Work No. 1A**—A bridge over the intended railway (Work No. 1) to provide access for the proposed Shawfair development.

**Work No. 1B**—An access road commencing by a junction with Work No. 1C at a point 117 metres south-west of the entrance to the CPL Distribution Depot on the unnamed road forming the western continuation of Newton Church Road and terminating at that entrance.

**Work No. 1C**—A realignment of the unnamed road forming the western continuation of Newton Church Road and of Newton Church Road commencing at a point in that unnamed road 190 metres south-west of the entrance to the CPL Distribution Depot on the unnamed road, passing over the intended railway (Work No. 1) and terminating at a point 195 metres north-east of the north-eastern corner of Hope Cottage. Work No. 1C includes a bridge over the intended railway (Work No. 1).

**Work No. 1D**—A road commencing by a junction with Work No. 1C at a point 200 metres north-east of the north-eastern corner of Hope Cottage and terminating by a junction with Newton Church Road at a point 110 metres north-east of the north-eastern corner of Hope Cottage.

**Work No. 1E**—A footbridge over the intended railway (Work No. 1) to provide access for the proposed station at Shawfair.

**Work No. 1F**—A footbridge over the intended railway (Work No. 1) at Longthorn between the junction of Newton Village with Newton Church Road and a point 105 metres south-east of the south-eastern corner of Hope Cottage.

**Work No. 1G**—A road commencing by a junction with Millerhill Road (A6106) and the commencement of Work No. 1J, at a point 222 metres west of the roundabout at the junction of that road and Old Craighall Road (B6415), passing over the intended railway (Work No. 1) and terminating at a point 253 metres north of that roundabout. Work No. 1G includes a bridge over the intended railway (Work No. 1).

**Work No. 1H**—A road commencing by a junction with Work No. 1G at a point 235 metres north of the roundabout at the junction of Millerhill Road (A6106) and Old Craighall Road (B6415) and terminating by a junction with Old Craighall Road at a point 160 metres north-east of that roundabout.

**Work No. 1J**—A realignment of Millerhill Road (A6106) commencing by a junction with that road at the commencement of Work No. 1G and terminating by a junction with Millerhill Road at a point 215 metres south of the access road leading to Sheriffhall Mains.

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**Work No. 1K**—A road commencing by a junction with the access road leading to Sheriffhall Mains at a point 340 metres south of the roundabout at the junction of Millerhill Road (A6106) and Old Craighall Road (B6415) and terminating by a junction with Work No. 1J at a point 282 metres south-west of that roundabout. Work No. 1K includes a bridge over the intended railway (Work No. 1).

Railway between Old Dalkeith Road and the Butlerfield Industrial Estate—

**Work No. 2**—A railway (4,800 metres in length) commencing by a junction with Work No. 1 at its termination, passing in part over the course of the former Waverley railway and terminating at a point 68 metres north of the northern side of Brewer's Bush Bridge carrying New Hunterfield (B704) over the intended railway. Work No. 2 includes the strengthening of Glenesk Viaduct carrying the intended railway over the river North Esk; the removal of the existing footbridge at the former Eskbank Station; the reconstruction of Hardengreen Farm Bridge carrying the track to that farm over the intended railway; a viaduct carrying the intended railway over Murderdean Road (A7) and the B6392 road at Hardengreen Junction and the strengthening of Newbattle Viaduct carrying the intended railway over the river South Esk. Work No. 2 includes stations at Eskbank and Newtongrange.

**Work No. 2A**—A footbridge over the intended railway (Work No. 2) to provide access to the proposed station at Eskbank.

**Work No. 2B**—An access road commencing by a junction with the private service road off the Tesco car park at a point 40 metres south-east of the entrance to the Tesco Petrol Station at Hardengreen and terminating in the proposed station car park at Eskbank at a point 197 metres east of that entrance.

**Work No. 2C**—A road commencing by a junction with the access road (Work No. 2B) at a point 75 metres south-east of the entrance to the Tesco Petrol Station at Hardengreen and terminating at the goods entrance to Tesco at a point 75 metres east of that entrance.

**Work No. 2D**—A road commencing by a junction with the access road (Work No. 2B) at a point 142 metres south-east of the entrance to the Tesco Petrol Station at Hardengreen and terminating at the entrance to K&I Coachworks at a point 140 metres south-east of that entrance.

**Work No. 2E**—A footbridge over the intended railway (Work No. 2) at Newtongrange between Redwood Walk and Station Road.

**Work No. 2F**—A footbridge over the intended railway (Work No. 2) at Deanpark between New Star Bank and Station Road.

Railway between Butlerfield Industrial Estate and Borthwick Mains Cottages—

**Work No. 3**—A railway (5,900 metres in length) commencing by a junction with Work No. 2 at its termination, passing over the course of the former Waverley railway and terminating at a point 70 metres east of the eastern side of Thorniehill Bridge carrying Castle Road over the intended railway. Work No. 3 includes a viaduct carrying the intended railway over the A7 road at Gore Glen Country Park; the removal of Harvieston South Footbridge at the former Fushiebridge station; a station at Gorebridge; and an overbridge at Catcune Farm.

**Work No. 3A**—A footbridge over the intended railway (Work No. 3) at Gore Glen Country Park (west) between the Country Park's existing footpath network and the Country Park's car park adjacent to the A7 road.

**Work No. 3B**—A footbridge over the intended railway (Work No. 3) at Gore Glen Country Park (east) to carry the path between the Country Park's existing footpath network and Millbank House over Work No. 3.

**Work No. 3C**—A railway (346 metres in length), forming a turnback siding at Gorebridge, commencing at a point 322 metres south-east of the south-eastern corner of Millbank

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House and terminating by a junction with the intended railway (Work No. 3) at a point 230 metres west of the bridge carrying Main Street/Station Road over Work No. 3.

**Work No. 3D**—A footbridge over the intended railway (Work No. 3) at Gorebridge to carry the path between Robertson's Bank and Vogrie Road over Work No. 3.

In the local government areas of Midlothian and Scottish Borders—

Railway between Borthwick Mains Cottages and Cowbraehill—

**Work No. 4**—A railway (5,100 metres in length) commencing by a junction with Work No. 3 at its termination, passing over the course of the former Waverley railway and terminating at a point 267 metres south-east of the junction of the track leading to Steading Cottage/Cowbraehill with the B6367 road. Work No. 4 includes the reconstruction of the Halflaw Kiln Overbridge, the Halflaw Bow's Overbridge and the bridge carrying the track between the B6367 road and Halflaw Kiln over the intended railway; and the removal of the existing Willow Burn Bridge.

Railway between Cowbraehill and Stagebank—

**Work No. 5**—A railway (5,000 metres in length) commencing by a junction with Work No. 4 at its termination, passing over the course of the former Waverley railway and terminating at a point 150 metres south-east of the former Stagebank level crossing. Work No. 5 includes the replacement of the decking of the unnamed culverts carrying Cakemuir Burn and Gala Water under the intended railway; the reconstruction of Shoestanes Overbridge over the intended railway; and the replacement of the decking of Heriot Station culvert carrying Gala Water and Shoestanes culvert carrying Shoestanes Burn under the intended railway.

In the local government area of Scottish Borders—

**Work No. 5A**—A realignment of the A7 road commencing at a point in that road 120 metres north of the existing junction of the private road leading to Falahill Farm with the A7 road and terminating at a point in the A7 road adjacent to No. 6 Falahill Cottages. Work No. 5A includes a bridge over the intended railway (Work No. 5).

**Work No. 5B**—A road commencing by a junction with Work No. 5A at a point 70 metres south of the existing junction of the private road leading to Falahill Farm with the A7 road and terminating by a junction with that private road at a point 120 metres south-west of that existing road junction.

**Work No. 5C**—A footbridge over the intended railway (Work No. 5) at the former Heriot Station to replace the length of Heriot Way between points E3 and E4.

**Work No. 5D**—A road commencing by a junction with the B709 road at a point 120 metres south of the existing junction of Old Stage Road (C11) with the B709 and terminating by a junction with the A7 road at a point 233 metres north-east of that existing road junction. Work No. 5D includes a bridge over the intended railway (Work No. 5) and earthworks for a visibility splay at its junction with the A7 road. Work No. 5D also includes a diversion of Gala Water from its existing course between points E7, E8 and E10 to a new course between points E7, E9 and E10.

**Work No. 5E**—A road commencing by a junction with Work No. 5D at a point 33 metres north of the existing junction of Old Stage Road (C11) with the B709 road and terminating by a junction with the B709 75 metres north-west of that existing road junction.

**Work No. 5F**—A road commencing by a junction with Work No. 5D at a point 40 metres south of the existing junction of Old Stage Road (C11) with the B709 road and terminating by a junction with Old Stage Road 130 metres south-east of that road junction.

**Work No. 5G**—An improvement of the Hangingshaw branch of the C11 road between a point 112 metres south of the junction of that branch road with the A7 road and the junction with Old Stage Road (C11). Work No. 5G includes a bridge over the intended railway (Work No. 5).

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Railway between Stagebank and Hazelbank Quarry—

**Work No. 6**—A railway (3,300 metres in length) commencing by a junction with Work No. 5 at its termination, passing over the course of the former Waverley railway and terminating at a point 63 metres south of the bridge carrying the former railway over Gala Water. Work No. 6 includes the replacement of the decking of Hangingshaw Cattle Creep under the intended railway and of Little Gala, Crookston Mill, Hollowshank and Bower bridges carrying the intended railway over Gala Water.

Railway between Hazelbank Quarry and Stow—

**Work No. 7**—A railway (7,000 metres in length) commencing by a junction with Work No. 6 at its termination, passing over the course of the former Waverley railway and terminating at a point 158 metres north-west of the bridge carrying Station Road over the former railway at Stow. Work No. 7 includes a new culvert with track at Fountainhall to carry Still Burn under the intended railway; the reconstruction of Plenploth North, Torquhan South and Watherston bridges to carry the intended railway over Gala Water; the replacement of the decking of the culvert carrying a cattle creep and drain under the railway at Pirn and the culvert carrying Dean Burn under the railway at Watherston; the reconstruction of Craigbank Cattle Creep and of Watherston Dry Underbridge carrying the intended railway over the access track between the A7 road and Watherston Farm at The Craigs Wood; and the replacement of the decking of the bridge to carry the intended railway over Gala Water at Galabank.

**Work No. 7A**—A road commencing by a junction with the Fountainhall branch of the C11 road at a point 210 metres north-west of the junction of that branch road with Old Stage Road (C11) and terminating by a junction with the A7 road at a point 86 metres north-west of the junction of the Fountainhall branch of the C11 with the A7 road. Work No. 7A includes a bridge over the intended railway (Work No. 7) and earthworks for a visibility splay at its junction with the A7.

**Work No. 7B**—An access road commencing by a junction with Work No. 7A at a point 100 metres south-west of the junction of the Fountainhall branch of the C11 with the A7 road and terminating by a junction with the private road leading to Allanshaugh at a point 187 metres north-east of the junction of that road with Old Stage Road (C11).

Railway between Stow and Bowland Bridge—

**Work No. 8**—A railway (5,400 metres in length) commencing by a junction with Work No. 7 at its termination, passing over the course of the former Waverley railway, through the existing Bowshank Tunnel and terminating at a point 216 metres south-east of the bridge (Bowland Bridge) carrying the former railway over the Caddonfoot to Bowland road (B710). Work No. 8 includes a station at Stow; the replacement of the decking of the bridges carrying the intended railway over Lugate Water and Ferniehirst Dry; the replacement of the decking of Ferniehirst Water and Bowshank South bridges carrying the intended railway over Gala Water and the bridge (Bowland Bridge) carrying the intended railway over the Caddonfoot to Bowland road (B710); the replacement of the decking of the sheep and cattle creeps under the intended railway at Lugate Dry, Ferniehirst Dry and Bow Bridge; the improvement of Bowshank Tunnel; and the removal of Bowshank Farm Bridge over the intended railway.

**Work No. 8A**—A realignment of the Bow branch of the C11 road between a point 130 metres south-west of the junction of that branch road with the A7 road and a point 130 metres north-east of the junction of that branch road with Old Stage Road (C11). Work No. 8A includes a bridge under the intended railway (Work No. 8).

**Work No. 8B**—A footbridge over the intended railway (Work No. 8) to provide access to the station at Stow.

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Railway between Bowland Bridge and Torwoodlee—

**Work No. 9**—A railway (3,300 metres in length) commencing by a junction with Work No. 8 at its termination, passing over the course of the former Waverley railway, through the existing Torwoodlee Tunnel and terminating at a point 80 metres south of the southern portal of the Torwoodlee Tunnel. Work No. 9 includes the replacement of the decking of Whitelee Culvert carrying Halk Burn under the intended railway; the replacement of the decking of Whin Underbridge carrying the intended railway over Gala Water at Robin's Knowe; the replacement of the decking of Torwoodlee Cattle Creep under the intended railway; and a bridge (Torwoodlee Water Underbridge) to carry the intended railway over Gala Water at Torwoodlee.

Railway between Torwoodlee and Tweedbank—

**Work No. 10**—A railway (5,780 metres in length) commencing by a junction with Work No. 9 at its termination, passing over the course of the former Waverley railway and terminating at a point 35 metres north of the junction of the Tweedbank Industrial Estate Road with Tweedbank Drive. Work No. 10 includes bridges to carry the intended railway over Gala Water at Torwoodlee and over Wheatlands Road (DG108); the reconstruction of the bridge carrying the intended railway over Gala Water adjacent to Plumtreehall Brae (DG84); a station at Galashiels; the removal of the existing Station Brae Bridge; bridges to carry the intended railway over the Langhaugh Industrial Estate Road (DG125/2), the access road (Work No. 10H), Glenfield Road West (DG39) and the path between Glenfield Road East and Huddersfield Street; a bridge to carry Winston Road over the intended railway; and a station at Tweedbank.

**Work No. 10A**—A footbridge over the intended railway (Work No. 10) to replace the length of Plumtreehall Brae (DG84) between a point 75 metres south-west of the junction of that road with Magdala Terrace (A7) and a point 95 metres south of that road junction.

**Work No. 10B**—A reconstruction of the bridge carrying Plumtreehall Brae (DG84) over Gala Water north-east of the junction with King Street (A72).

**Work No. 10C**—A footbridge over the intended railway (Work No. 10) to replace the length of the unnamed road between High Buckholmside (A7) and Low Buckholmside (DG68) between a point 50 metres south of the junction of that unnamed road with High Buckholmside and a point 8 metres north of the junction of the unnamed road with Low Buckholmside.

**Work No. 10D**—A road commencing by a junction with Work No. 10E at a point 75 metres east of the junction of Station Brae (B6374) with Market Street (A7) and terminating by a junction with Station Brae at a point 30 metres north-west of the junction of that road with High Road (B6452). Work No. 10D includes a bridge over the intended railway (Work No. 10).

**Work No. 10E**—A road commencing in Currie Road (DG125/2) at a point 60 metres east of its junction with Ladhope Vale (A7) and terminating by a junction with Currie Road (DG125/2) at a point 40 metres north-west of the junction with Currie Road of the entrance to the Health Centre and public car park.

**Work No. 10F**—An access road commencing at the junction of Station Brae (B6374) with Market Street (A7) and terminating at the entrance to the car park adjoining Our Lady and St Andrew Church.

**Work No. 10G**—An access road commencing by a junction with Work No. 10F at a point 12 metres north-east of the junction of Station Brae (B6374) with Market Street (A7) and terminating at the entrance to the car park adjoining Anderson's Chambers.

**Work No. 10H**—An access road commencing by a junction with Glenfield Road West (DG39) at a point 180 metres south-east of the junction of the Langhaugh Industrial Estate Road (DG125/2) with Currie Road (DG125/2) and terminating at a point 190 metres south-east of that road junction.

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**Work No. 10J**—A footbridge over the intended railway (Work No. 10) to replace a length of the path between Dale Street (DG15) and Langlee Drive (DG60).

**Work No. 10K**—An access road commencing at a point in the proposed station car park at Tweedbank 65 metres north of the existing junction of the Tweedbank Industrial Estate Road with Tweedbank Drive and terminating at a point 12 metres south of that existing road junction.

**Work No. 10L**—An improvement of Tweedbank Drive between a point in that road 25 metres north-west of the existing junction of the Tweedbank Industrial Estate Road with Tweedbank Drive and a point in Tweedbank Drive 40 metres south-east of that existing road junction.

## 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.

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SCHEDULE 3  
(introduced by section 8)

PRIVATE CROSSINGS

PART 1

CONTINUING PRIVATE CROSSINGS

<i>Local government area</i>	<i>Sheet of Parliamentary plans</i>	<i>Road</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
Midlothian	11	Dalhousie Mains private access
Midlothian	15	Redheugh private access
Midlothian	22	Overbridge, Catcune (part of Work No. 3)
Midlothian	22	Catcune Farm Underbridge
Midlothian	24	Borthwick Mains Overbridge
Midlothian	25	Halflaw Kiln Overbridge
Midlothian	26	Halflaw Bow's Overbridge
Midlothian	28	Willow Burn Overbridge
Midlothian	31	Old Moss Overbridge, Cowbraehill
Scottish Borders	35	Shoestanes Overbridge, Nettlingflat
Scottish Borders	39	Hangingshaw Cattle Creep, Hangingshaw
Scottish Borders	39	Little Gala Underbridge, Halftree
Scottish Borders	42	Crookston Mill Underbridge, Crookston
Scottish Borders	42	Hollowshank Underbridge, Crookston
Scottish Borders	43	Bower Underbridge, Hazelbank
Scottish Borders	44	Pirntaton Overbridge
Scottish Borders	44	Sheep creep carrying Still Burn, Fountainhall, under the intended railway
Scottish Borders	45	Access road to Allanshaugh, Fountainhall

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Scottish Borders	47	Plenploth North Underbridge, Plenploth
Scottish Borders	48	Torquhan South Underbridge, Torquhan
Scottish Borders	48	Pirn Underbridge, Torquhan
Scottish Borders	50	Craigbank Cattle Creep
Scottish Borders	51	Watherston Underbridge, Watherston
Scottish Borders	52	Watherston Dry Underbridge, Watherston
Scottish Borders	52	Galabank Underbridge, Galabank
Scottish Borders	57	Lugate Dry Underbridge, Lugate
Scottish Borders	57	Lugate Water Underbridge, Lugate
Scottish Borders	58	Furniehurst Underbridge, Furniehurst
Scottish Borders	59	Furniehurst Water Underbridge, Furniehurst
Scottish Borders	59	Unnamed sheep creep, Bow Bridge
Scottish Borders	61	Harper's Overbridge, Dryburn
Scottish Borders	63	Whitelee Overbridge, Whitelee
Scottish Borders	64	Whin Overbridge, Whitelee
Scottish Borders	65	Whin Underbridge, Robin's Knowe
Scottish Borders	66	Torwoodlee Cattle Creep, Torwoodlee
Scottish Borders	66	Torwoodlee Road Overbridge, Torwoodlee
Scottish Borders	70	Torwoodlee Water Underbridge, Gala Water
Scottish Borders	70	Torwoodlee Culvert carrying Mill Lead, Torwoodlee
Scottish Borders	70	Culvert carrying Buckholm Mill Lade, Torwoodlee
Scottish Borders	70	Ryehaugh Dry Culvert, Torwoodlee

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Scottish Borders	70	Ryehaugh Water Underbridge, Gala Water
Scottish Borders	71	Kilnknowe Farm Overbridge, Galashiels

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## PART 2

### PRIVATE CROSSINGS TO BE STOPPED UP AND DISCONTINUED

<i>Local government area</i>	<i>Sheet of Parliamentary plans</i>	<i>Location</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
Midlothian	22	Existing overbridge, Catcune Farm
Scottish Borders	47	Unnamed crossing between Plenploth North Underbridge and Torquhan South Underbridge
Scottish Borders	51	Unnamed at grade crossing adjacent to Watherston Farm Cottage, Watherston
Scottish Borders	60	Bowshank Farm Overbridge, Bowshank
Scottish Borders	63	Unnamed at grade crossing at Bowland Wood

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## SCHEDULE 4

*(introduced by sections 9 and 10)*

### STOPPING UP AND DIVERSION OF ROADS

## PART 1

### ROADS TO BE PERMANENTLY STOPPED UP

<i>Sheet of Parliamentary plans</i>	<i>Road to be stopped up</i>	<i>Extent of stopping up</i>	<i>Substitute to be provided or alternative</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<b>In the local government area of Midlothian—</b>			
2	Track crossing former Monktonhall Colliery site	Between points A1 and A2	No alternative

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3	Road (unnamed)/ Newton Church Road, Longthorn	Between points A3 and A4	Works Nos. 1C and 1D
3	Newton Church Road, Longthorn	Between points A5 and A7	Work No. 1F (pedestrians) Works Nos. 1C and 1D and existing road network (vehicles)
4	Path between Longthorn and Wester Millerhill	Between points A8 and A9	Work No. 1H and Old Craighall Road
4	Road (unnamed) to Sheriffhall Mains	Between points A13 and A15a	Work No. 1K
4, 5	Millerhill Road, Wester Millerhill	Between points A12, A11, A13 and A14	Work No. 1J
4, 5	Road (unnamed) between Millerhill Road and Sheriffhall Mains	Between points A15, A16 and A17	Works Nos. 1J and 1K
6	Path between Dean Burn/Dalkeith Country Park and A68 King's Gate overbridge	Between points B3 and B2	No alternative
6 to 9	Track (Penicuik- Musselburgh Foot & Cycleway)	Between points B1 and B2 Between points B6, B7, B9, B11, B13, B17, B19 and B20	Track between points B4 and B5 Existing road and footpath network
7	Path between Glenesk Viaduct and High Woods, Ironmills Park	Between points B5 and B6	Existing footpath network (Ironmills Park)
7	Track between Glenesk Viaduct (south end), former Dalkeith railway leading to Cemetery Road and former railway	Between points B7, B8 and B9	Existing road and footpath network
7	Track between Garden Cottage (Viewpoint Housing Association, Avenue Road) and former railway	Between points B10 and B11	No alternative

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8	Track between Station Road and former railway	Between points B12 and B13	No alternative
8	Path between Hardengreen Industrial Estate and Westfield Bank	Between points B14 and B15	Work No. 2A, Hardengreen Lane and Westfield Park
9	Track between Hardengreen Lane and former railway	Between points B16 and B17	Footpath between B16 and B16a and Work No. 2A
12	Track between Station Road and Redwood Walk	Between points B27 and B28	Work No. 2E
12, 13	Track between Victoria Road and Deanpark	Between points B25, B26 and B31	Victoria Road, track between points B28 and B30 and Work No. 2F
13	Track between Station Road and New Star Bank	Between points B29 and B30	Work No. 2F
13 to 16	Path between Murderdean Road and Gore Glen Country Park	Between points B32, C1, C2 and C3	No alternative
16	Track between A7 road and former Kirkhill Hotel	Between points C3a and C3b	Via Povert Road
16, 17	Paths, Gore Glen Country Park	Between points C4, C3, C5 and C6, points C7 and C8 and points C9 and C10	Path between points C4, C7 and C10 and Work No. 3A
17	Path between Millbank House and Gore Glan Country Park footpath network	Between points C13, C14 and C15	Work No. 3D
17	Path between Old Shank Bridge and Gorebridge (ROW 59)	Between points C16 and C17	Path between points C13, C17 and C18
17 to 20	Path between Millbank House and Goreside	Between points C14, C16, C19 and C20	Path between points C13, C17 and C18 and existing road network
20	Path at Goreside	Between points C21 and C22	Work No. 3D

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21	Harvieston South Footbridge (former Fushiebridge Station Footbridge)	Between points C23 and C24	Fushiebridge Station Road bridge
22	Path at Catcune	Between points C25 and C26	Bridge to be provided (part of Work No. 3)
28	Track between B6367 and Halflaw Kiln	Between points D3, D6 and D5	Bridge to be provided (part of Work No. 4)
<b>In the local government area of Scottish Borders—</b>			
33, 34	A7 road at Falahill	Between points E1 and E2	Work No. 5A
34	Lay-by (A7) at Falahill	Between points E2a and E2b	Lay-by at Falahill between points X and Y
36	Heriot Way (B709), Heriot	Between points E3 and E4	Works Nos. 5C, 5D and 5E and existing road network
36,37	B709 road and Old Stage Road (C11)	Between points E11 and E12 and points E11 and E13	Works Nos. 5D, 5E and 5F
38	Path, former Stagebank Crossing, Stagebank	Between points E7 and E8	No alternative
40	Track between Haltree and A7 road	Between points F1 and F2	Existing road network
44	Road (C11 Fountainhall branch) between Old Stage Road and A7 road at Fountainhall	Between points G1 and G2	Work No. 7A
57	Track between Torsonce Mains and Old Stage Road	Between points H1 and H2	No alternative
59	Road (C11 Bow branch) between Old Stage Road and A7 road at Bow Bridge, Bow	Between points H3 and H4	Work No. 8A
70, 71	Path between Gala Water and Wheatlands Road	Between points K1, K2 and K3	Paths between points K1 and K4 and points K5 and K6 and existing footway network
71	Track between Black Path and Lee Brae	Between points K10 and K15	No alternative

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71 to 73	Track (Black Path)	Between points K9, K10, K11, K12 and K14	Track between points K21 and K22 and existing footway network
72	Path between Black Path and A7 road, High Buckholmside	Between points K11 and K20	Existing footway network
72	Plumtreehall Brae (DG 84)	Between points K16 and K17	Work No. 10A (pedestrians) Existing road network (vehicles)
73	Road (unnamed) between High and Low Buckholmside at Brewerybrig	Between points K26 and K27	Path between points K26 and K27 and Work No. 10C (pedestrians) No alternative (vehicles)
73	Track to Ladhope Vale (A7)	Between points K12 and K13	No alternative
73	Footway (Ladhope Vale (A7))	Between points K13 and K14	Existing footway network
73, 74	Currie Road (DG 125/2)	Between points K34 and K35	Work No. 10E
74	Station Brae (B6374)	Between points K30 and K31	Works Nos. 10D and 10E and existing road network
74	Track (Black Path)	Between points K32 and K33	Existing footway network
74	Langhaugh Industrial Estate Road (DG 125/2)	Between points K38 and K39	Work No. 10H and existing road network
74	Path between Langhaugh Industrial Estate Road (DG125/2) and Langhaugh Lane	Between points K40 and K41	Work No. 10H, path between points K41 and K42 and existing road network
74, 75	Track (Black Path)	Between points K46, K47, K48, K49, K50, K51, K52 and K53	Track between points K46, K57, K58 and K53
75	Tracks between Glenfield Road West and Black Path	Between points K54 and K48, points K55 and K49, points K50 and K52 and points K56 and K52	Track between points K46, K57, K58 and K53 and points K58 and K56 and existing road network
75	Path at Glenfield	Between points K47 and K56	Track between points K46, K57 and K58,

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			and points K56 and K58
75 to 77	Track (Black Path)	Between points K51, K63, K73, K75 and K76	Existing footbridge to south of Gala Water then existing footway and footpath network to point K82
76	Middle section of path between Langlee Drive and Dale Street	Between points K60, K61, and K62	Work No. 10J
76	Spur path between Black Path and pedestrian footbridge over Gala Water	Between points K63 and K64	No alternative
76	Path between playground at Woodstock Avenue and point K71	Between points K67, K68, K69, K70 and K71	No alternative
76	Track between Woodstock Avenue and Black Path	Between points K72 and K73	No alternative
76	Track between Winston Place and Black Path	Between points K74 and K75	No alternative
77	Track (Southern Upland Way/Black Path)	Between points K77, K76, K78, K80, K81 and K83	Path between points K82 and K83
77	Access to Black Path	Between points K79 and K80	No alternative
77	Path, Lowood to Tweedbank	Between points K84 and K85	No alternative
77, 78	Track (Black Path)	Between points K81, K84 and K86	Existing footpath and footway network on south side of railway
78	Path, Well Park to Tweedbank	Between points K86 and K87	No alternative
78	Track (Southern Upland Way/Black Path)	Between points K86 and K88	Existing footway network on south side of railway

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## PART 2

### ROADS TO BE TEMPORARILY STOPPED UP

<i>Sheet of Parliamentary plans</i>	<i>Road to be stopped up</i>	<i>Extent of temporary stopping up</i>
(1)	(2)	(3)
<b>In the local government area of Midlothian—</b>		
4	Old Craighall Road, Wester Millerhill	Between points A10 and A11
5, 6	The City of Edinburgh Bypass (A720), Sheriffhall	Between points A18, A19, A20 and A21
9	Track between Hardengreen House and K&I Coachworks, Hardengreen	Between points B18 and B19
11	Roads (A7 and B6392), Hardengreen Junction	Between points B21 and B22 and points B23 and B24
16	Povert Road	Between points C2a and C2b
17	Road (A7), near Gore Glen Country Park	Between points C11 and C12
25	Path between Birky Side and Borthwick Bank	Between points D1 and D2
28	Track between B6367 road and Halfaw Kiln	Between points D3, D4 and D5
<b>In the local government area of Scottish Borders—</b>		
37	Road (C11 Hangingshaw branch)	Between points E5 and E6
71	Wheatlands Road (DG108)	Between points K7 and K8
72	Plumtreehall Brae (DG84)	Between points K18 and K19
72	Track (above Black Path)	Between points K24 and K25
72, 73	Low Buckholmside Road (DG68)	Between points K22 and K23
73	Ladhope Vale (A7)	Between points K28 and K29
74	Road (DG115/2)	Between points K36 and K37
74	Glenfield Road West (DG39)	Between points K43 and K44
74, 75	Glenfield Road West (DG39) and Glenfield Road East (DG38)	Between points K44 and K45
75	Gala Water Footbridge	Between points K53 and K59
75	Path (Ovens Underpass off Glenfield Road East (DG38))	Between points K55a and K56

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76	Track (above Black Path)	Between points K65, K64 and K66
77	Winston Road (DG110)	Between points K76 and K77

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## SCHEDULE 5

(introduced by section 12)

### 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 12 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.
- 3 For the purpose of carrying out safeguarding works to a building under section 12 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 12 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 34 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 12 of this Act; and

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- (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 6

(introduced by sections 13 and 15)

### ACQUISITION OF LAND, ETC. OUTSIDE LIMITS OF DEVIATION

#### PART 1

#### ACQUISITION OF LAND

<i>Location</i>	<i>Sheet of Parliamentary plans</i>	<i>Number of land shown on plans</i>	<i>Purposes for which land to be acquired</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<b>In the local government area of Midlothian—</b>			
Harelaw Farm	3	41a, 41b, 41d, 41e	Station car park and access.
Harelaw	3	54, 54a, 59, 60	Relocation of apparatus (subsoil only).
Harelaw	3	63, 69	Installation of equipment and compound.
Sheriffhall	6	158	Provision of track.
Glenesk	6, 7	159	Provision of track.
Glenesk	7	162	Provision of track.
Hardengreen Lane	9	194, 196	Station access.
Hardengreen	9	202a, 203, 203a	Relocation of apparatus.
Hardengreen	9, 10	191	Station access.
Hardengreen	10	192, 193	Station access.

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Lothian Cottage	12	255, 257	Relocation of apparatus (subsoil only).
Redwood Walk	12	261, 261a	Provision of track.
New Star Bank	13	266	Provision of track.
Murderdean Road	13	281, 282, 282a, 283, 284, 285, 286a	Station car park and access.
Jenks Loan	13	287	Installation of equipment and compound.
Brewer's Bush Bridge	14	300, 302, 302a	Access for construction and thereafter for maintenance.
Redheugh	16	325	Access for construction and thereafter for maintenance.
Shank Bridge	17, 19	346	Access for construction and thereafter for maintenance. Provision of track.
Gorebridge	19	355, 356, 357	Access for construction and thereafter for provision of track.
Gorebridge	19	359	Access for construction and thereafter for maintenance. Relocation of apparatus (subsoil only).
Station Road	19	389	Station car park and access.
Station Road	19	387, 392, 393	Road improvements and landscaping.
Robertson's Bank	20	401, 402	Installation of equipment and compound.
Catcune	22	431	Installation of apparatus (subsoil only).

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Borthwick Mains	23	430a, 432, 432a	Installation of apparatus (subsoil only).
Borthwick Mains	24	435	Installation of equipment and compound.
Maggie Bowies Glen	27	467, 468	Installation of apparatus (subsoil only).
Tynehead	28	477, 479	Access for construction and thereafter for provision of track.
Tynehead	31	497	Access for construction and thereafter for maintenance.
<b>In the local government area of Scottish Borders—</b>			
Tynehead	31	13	Installation of apparatus (subsoil only).
Tynehead and Cowbraehill	31, 32	13b	Installation of apparatus (subsoil only).
Falahill	33	43	Access for construction and thereafter for provision of track.
Falahill	33, 34	44, 44b	Access for construction and thereafter for provision of car park and access.
Falahill	34, 35	53, 54	Access for construction and thereafter for maintenance. Road improvements and landscaping.
Heriot	36	75, 77, 80, 120, 120a, 120b, 120c, 123a	Road improvements and landscaping.
Heriot	36, 37	107	Road improvements and landscaping.
Heriot	37	100, 101, 116	Road improvements and landscaping.

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Hangingshaw	37	124	Access for construction. Riverbank protection.
Hangingshaw	37	121, 141, 142, 143	Road improvements and landscaping.
Stagebank	38	150	Access for construction and thereafter for maintenance.
Stagebank	38	156	Access for construction. Riverbank protection.
Haltree	40	171	Access for construction. Riverbank protection.
Crookston	42	180	Access for construction and thereafter for maintenance.
Fountainhall	44	212	Construction and maintenance compound and access for construction and thereafter for maintenance.
Fountainhall	45	239, 240, 241	Access for construction. Riverbank protection.
Pirn House	48	273, 274	Access for construction. Riverbank protection.
Pirn House	50	276	Access for construction. Riverbank protection.
Watherston	51	290, 291	Access for construction. Riverbank protection.
Galabank	52	309	Access for construction and thereafter for maintenance.
Galabank	53	324, 325, 326	Access for construction. Riverbank protection.
Galabank	53	328	Access for construction and

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			thereafter for maintenance.
Stow	53, 54	329, 330, 331	Access for construction. Riverbank protection.
Stow	54	332	Access for construction. Riverbank protection.
Stow	54	339	Access for construction and thereafter for provision of track.
Stow	Stow plan	336a, 337b, 337c, 340a, 340b, 341, 341a, s8, s9, s10	Station car park and access.
Stow	56	351, 352	Access for construction. Riverbank protection.
Stow	57	367	Installation of apparatus (subsoil only).
Stow	57, 58	368	Installation of apparatus (subsoil only).
Stow	58	370, 371	Installation of apparatus (subsoil only).
Bowshank	61	525, 526	Access for construction. Riverbank protection.
Bowshank	62	534	Access for construction and thereafter for maintenance.
Bowland Bridge	62, 63	547	Access for construction. Riverbank protection.
Bowland Wood	63	554	Access for construction and thereafter for maintenance.
Whitelee House	64	556, 557, 558, 559	Access for construction. Riverbank protection.
Robin's Knowe	65	583, 584	Access for construction.

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Torwoodlee	65, 66	585	Riverbank protection. Access for construction. Riverbank protection.
Torwoodlee	65, 66	586	Access for construction and thereafter for maintenance.
Torwoodlee Tunnel	70	611	Access for construction and thereafter for maintenance.
Mill Park	70	629	Access for construction and thereafter for provision of track.
Mill Park	70, 71	628, 630	Access for construction and thereafter for provision of track.
Wheatlands Road	71	645, 646, 648	Access for construction and thereafter for maintenance.
Plumtreehall Brae	72	665, 670, 671	Road improvements and landscaping.
Plumtreehall Brae	72	686	Access for construction and thereafter for provision of track.
Plumtreehall Brae	72	689	Access for construction. Riverbank protection.
Low Buckholmside	72	698	Access for construction and thereafter for accommodation access.
Low Buckholmside	72, 73	703	Access for construction. Riverbank protection.
Low Buckholmside	73	705	Provision of turning head for vehicles.
Currie Road	74	739, 739a, 741, 745, 746, 749, 751, 756	Access for construction and

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			thereafter for maintenance.
Glenfield Road	74	760a	Relocation of apparatus (subsoil only).
Glenfield Road	74, 75	763	Relocation of apparatus (subsoil only).
Galafoot	77	800, 806, 808	Installation of apparatus (subsoil only).
Tweedbank	78	814	Access for construction and thereafter for maintenance.
Tweedbank	78	817	Station car park and access.

## PART 2

### ACQUISITION OF RIGHTS ONLY

<i>Location</i>	<i>Sheet of Parliamentary plans</i>	<i>Number of land shown on plans</i>	<i>Purposes for which rights may be acquired</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<b>In the local government area of Midlothian—</b>			
Whitehill Mains	1, 1A	8	Access for construction and thereafter for maintenance.
Shawfair	1	9	Access for construction and thereafter for maintenance.
Millerhill Marshalling Yard	1	10	Access for construction and thereafter for maintenance.
Shawfair	2	5a, 12, 12a, 12c, 13, 15, 17, 18, 19, 21, 23	Ground stabilisation.
Shawfair	2, 3	29, 31	Ground stabilisation.
Newton Church Road	3	32, 34	Ground stabilisation.
Harelaw Farm	3	48, 50	Ground stabilisation.

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Harelaw	3	51, 53, 55, 57, 58, 60, 70, 72	Ground stabilisation.
Harelaw	3	61	Access for construction and thereafter for maintenance.
Longthorn	3	75	Ground stabilisation.
Longthorn	3, 4	78	Ground stabilisation.
Longthorn	4	79, 80, 83	Ground stabilisation.
Millerhill Road	4	94, 98, 98a, 98b, 99, 102, 126a	Ground stabilisation.
The Cockatoo public house	4	118	Access for construction and thereafter for maintenance.
Wester Millerhill	4	119, 122	Ground stabilisation.
Millerhill Road	4, 5	126, 127	Ground stabilisation.
Sheriffhall	5	140	Access for construction and thereafter for maintenance. Ground stabilisation.
Sheriffhall	5, 6	139, 144	Access for construction and thereafter for maintenance. Ground stabilisation.
Sheriffhall	6	145, 147	Ground stabilisation.
Sheriffhall	6	149, 150a	Access for construction and thereafter for maintenance. Ground stabilisation.
Glenesk	7	163, 165, 166, 167, 168, 169, 170, 175	Access for construction and thereafter for maintenance.
Station Road, Eskbank	8	186	Access for construction and thereafter for maintenance.
Hardengreen	9	210	Access for construction and thereafter for maintenance.

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Hardengreen	9, 10	213	Access for construction and thereafter for maintenance.
Dalhousie Mains	11	231, 233	Access for construction and thereafter for maintenance.
Newbattle Viaduct	11	243	Access for construction and thereafter for maintenance.
Newbattle Viaduct	11, 12	244	Access for construction and thereafter for maintenance.
Newbattle Viaduct	12	247, 249	Access for construction and thereafter for maintenance.
Dalhousie Road	12	258	Access for construction and thereafter for maintenance.
Newtongrange	13	275, 275a	Access for construction and thereafter for maintenance.
Redheugh	15	309	Access for construction and thereafter for maintenance.
Gore Glen Country Park	16, 17	336	Access for construction and thereafter for maintenance.
Shank Bridge	17	338a	Access for construction and thereafter for maintenance.
Millbank House	17, 18	344	Access for construction and thereafter for maintenance.
Arniston Engine	18	343	Access for construction and

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			thereafter for maintenance.
Gorebridge	19	358	Access for construction and thereafter for maintenance.
Robertson's Bank	20	403	Access for construction and thereafter for maintenance.
Catcune	21	423	Access for construction and thereafter for maintenance.
Tynehead	28	471, 472	Access for construction and thereafter for maintenance.
Tynehead	29, 30	488, 490	Ground stabilisation.
Tynehead	31	496	Access for construction and thereafter for maintenance.
<b>In the local government area of Scottish Borders—</b>			
Tynehead	31	13	Access for construction and thereafter for maintenance.
Tynehead and Cowbraehill	31, 32	13b	Access for construction and thereafter for maintenance.
Falahill	34	45	Access for construction and thereafter for maintenance.
Falahill	35	59, 60	Access for construction and thereafter for maintenance.
Heriot	36	74	Access for construction and thereafter for maintenance.
Hangingshaw	37	126	Access for construction and

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			thereafter for maintenance.
Stagebank	38	146, 153	Access for construction and thereafter for maintenance.
Haltree	40	169	Access for construction and thereafter for maintenance.
Crookston	41	174	Access for construction and thereafter for maintenance.
Crookston Cottage	42	177	Access for construction and thereafter for maintenance.
Fountainhall	45	229	Access for construction and thereafter for maintenance.
Plenploth	46	246, 248	Access for construction and thereafter for maintenance.
Torquhan	48, 49	266	Access for construction and thereafter for maintenance.
Torquhan	49	267, 268	Access for construction and thereafter for maintenance.
Watherston	50	280, 286, 287, 288	Access for construction and thereafter for maintenance.
Galabank	52	308, 315, 316, 318a, 323	Access for construction and thereafter for maintenance.
Stow	55	348	Access for construction and thereafter for maintenance.

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Stow	57	355	Access for construction and thereafter for maintenance.
Bowshank	60	409, 500, 502, 503, 504, 506	Ground stabilisation.
Bowland Wood	63	551	Access for construction and thereafter for maintenance.
Whitelee House	64	565	Access for construction and thereafter for maintenance.
Torwoodlee Golf Course	66, 69	588	Access for construction and thereafter for maintenance.
Torwoodlee	69	590, 591	Access for construction and thereafter for maintenance.
Kilnknowe Place	71	647	Access for construction and thereafter for maintenance.
Ladhope Vale	73	709, 710	Ground stabilisation.
Woodstock Avenue	76	784, 784a, 785	Ground stabilisation.
Winston Place	76, 77	786, 786a, 786b	Ground stabilisation.
Winston Place	77	787	Ground stabilisation.

## SCHEDULE 7

(introduced by section 17)

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>Location</i>	<i>Sheet of Parliamentary plans</i>	<i>Number of land shown on plans</i>	<i>Purposes for which temporary possession may be taken</i>	<i>Authorised work</i>
(1)	(2)	(3)	(4)	(5)
<b>In the local government area of Midlothian—</b>				

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Whitehill Mains	1	1	Construction compound, working space and access for construction.	Work No. 1
Whitehill Road	1	2, 4	Construction compound, working space and access for construction.	Work No. 1
Millerhill Marshalling Yard	1	7, 10	Construction compound, working space and access for construction.	Work No. 1
Shawfair	1	9	Construction compound, working space and access for construction.	Work No. 1
Millerhill	1, 2	5	Working space.	Work No. 1
Millerhill Marshalling Yard	1, 2	11	Construction compound, working space and access for construction.	Work No. 1
Shawfair	2	12, 12a, 12c, 13, 15, 17, 18, 19, 21, 23, 29a	Working space.	Works Nos. 1, 1A
Shawfair	2	27	Construction compound, working space and access for construction.	Work No. 1
Shawfair	2, 3	29, 31	Working space.	Work No. 1
Longthorne	3	32, 34, 40b	Construction compound, working space and access for construction.	Works Nos. 1, 1B, 1C
Newton Church Road	3	35, 35a, 36	Working space.	Work No. 1C
Harelaw Farm	3	38a, 38b, 41, 41c	Construction compound, working space and access for construction.	Works Nos. 1, 1C, 1D

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Harelaw Farm	3	38g, 38j, 38k, 39a, 39b, 39c, 43, 43a, 48, 50	Working space.	Works Nos. 1, 1C, 1D, 1E
Harelaw	3	51, 53, 55, 57, 58, 70, 72	Working space.	Works Nos. 1, 1F
Harelaw	3	54, 59, 60	Construction compound, working space and access for construction.	Works Nos. 1, 1F
Longthorn	3	75	Construction compound, working space and access for construction.	Work No. 1
Longthorn	3, 4	78	Construction compound, working space and access for construction.	Work No. 1
Longthorn	4	79, 80, 83, 114	Construction compound, working space and access for construction.	Works Nos. 1, 1G, 1H
Millerhill Road	4	91a, 94, 95b, 98, 98a, 98b, 99, 102, 126a	Construction compound, working space and access for construction.	Works Nos. 1, 1G, 1J
The Cockatoo public house	4	117, 118	Construction compound, working space and access for construction.	Works Nos. 1, 1G, 1J
Wester Millerhill	4	119, 122	Construction compound, working space and access for construction.	Works Nos. 1, 1J
Millerhill Road	4, 5	126, 127	Construction compound, working space and access for construction.	Works Nos. 1, 1J, 1K
Sheriffhall	5	140	Construction compound, working space	Works Nos. 1, 1J

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			and access for construction.	
Sheriffhall	5, 6	139, 144	Construction compound, working space and access for construction.	Works Nos. 1, 1J
Sheriffhall	5, 6	141, 143	Construction of bridge under the City of Edinburgh Bypass.	Work No. 1
Sheriffhall	6	145, 147, 148, 149, 154, 155, 158	Construction compound, working space and access for construction.	Works Nos. 1, 2
Glenesk	6, 7	159	Construction compound, working space and access for construction.	Works Nos. 1, 2
Gilmerton Road	7	178	Construction compound, working space and access for construction.	Work No. 2
Glenesk	7	162, 163, 165, 166, 167, 168, 169, 170, 174, 175	Construction compound, working space and access for construction.	Work No. 2
Eskbank	7, 8	177	Construction compound, working space and access for construction.	Work No. 2
Eskbank	8	179a, 180	Construction compound, working space and access for construction.	Work No. 2
Station Road, Eskbank	8	186, 186a, 186c	Construction compound, working space and access for construction.	Work No. 2

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Hardengreen	9	191a, 195, 197c, 200a, 200b, 209, 210, 211, 212	Construction compound, working space and access for construction.	Works Nos. 2, 2A, 2B, 2C, 2D
Hardengreen	9, 10	213	Construction compound, working space and access for construction.	Work No. 2
Hardengreen	9, 11	215, 216, 217	Construction compound, working space and access for construction.	Work No. 2
Hardengreen	10	214	Construction compound, working space and access for construction.	Work No. 2
Hardengreen Junction	11	218, 218a, 218b, 220, 221, 223, 225, 226, 229	Construction compound, working space and access for construction.	Work No. 2
Dalhousie Mains	11	230, 231, 233	Construction compound, working space and access for construction.	Work No. 2
Newbattle Viaduct	11	236, 238, 239, 241, 243	Construction compound, working space and access for construction.	Work No. 2
Newbattle Viaduct	11, 12	244, 245	Construction compound, working space and access for construction.	Work No. 2
Newbattle Viaduct	12	247, 249, 249a, 250, 251, 254	Construction compound, working space and access for construction.	Work No. 2
Dalhousie Road	12	258	Construction compound, working space	Work No. 2

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			and access for construction.	
Butlerfield Industrial Estate	13	288, 289	Construction compound, working space and access for construction.	Work No. 2
Newtongrange	13	275, 275a, 276, 277	Construction compound, working space and access for construction.	Works Nos. 2, 2F
Victoria Road	13	286, 286b	Construction compound, working space and access for construction.	Work No. 2
Lady Victoria Colliery	13	291a	Construction compound, working space and access for construction.	Work No. 2
Butlerfield Industrial Estate	13, 14	290	Construction compound, working space and access for construction.	Work No. 2
Lady Victoria Colliery	13, 14	291	Construction compound, working space and access for construction.	Work No. 2
Butlerfield Industrial Estate	14	290a, 290b, 299	Construction compound, working space and access for construction.	Works Nos. 2, 3
Lady Victoria Colliery	14	293, 293a, 294, 296, 298	Construction compound, working space and access for construction.	Works Nos. 2, 3
Brewer's Bush Bridge	14	301, 303, 307	Construction compound, working space and access for construction.	Works Nos. 2, 3

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Brewer's Bush Bridge	14, 15, 16	304	Construction compound, working space and access for construction.	Works Nos. 2, 3
Redheugh	15	308, 309, 310, 311, 312, 313	Construction compound, working space and access for construction.	Work No. 3
Redheugh	15, 16	316	Construction compound, working space and access for construction.	Work No. 3
Povert Road	16	317, 318, 319, 320, 321, 323, 326, 327, 328, 330, 331, 332, 333, 334	Construction compound, working space and access for construction.	Work No. 3
Gore Glen Country Park	16, 17	336, 337	Construction compound, working space and access for construction.	Works Nos. 3, 3A
Shank Bridge	16, 17	338	Construction compound, working space and access for construction.	Work No. 3
Shank Bridge	17	338a, 342, 345, 348	Construction compound, working space and access for construction.	Works Nos. 3, 3B, 3C
Millbank House	17, 18	344	Construction compound, working space and access for construction.	Work No. 3C
Shank Bridge	17, 19	348a	Construction compound, working space and access for construction.	Works Nos. 3, 3B, 3C
Arniston Engine	18	343	Construction compound, working space	Work No. 3

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			and access for construction.	
Stobs Mills House	19	360, 360a, 361, 362, 366	Construction compound, working space and access for construction.	Works Nos. 3, 3C
Stobs Mills House	19	363, 364, 365	Construction compound, working space, access and relocation of apparatus.	Works Nos. 3, 3C
Station Road	19	387	Construction compound, working space and access for construction.	Work No. 3
St Margaret's Church	19	391	Construction compound, working space and access for construction.	Work No. 3
Robertson's Bank	20	400, 401, 402, 413	Construction compound, working space and access for construction.	Works Nos. 3, 3D
Robertson's Bank	20, 21	404	Construction compound, working space and access for construction.	Works Nos. 3, 3D
Fushiebridge	21	414, 415, 416, 420, 421, 421a	Construction compound, working space and access for construction.	Work No. 3
Catcune	21	423, 424, 425, 426	Construction compound, working space and access for construction.	Work No. 3
Catcune	21, 22	427	Construction compound, working space and access for construction.	Work No. 3

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Catcune	22	428, 431	Construction compound, working space and access for construction.	Work No. 3
Catcune	22, 23	429	Construction compound, working space and access for construction.	Work No. 3
Borthwick Mains	24	434, 436, 437, 439, 440, 445, 446	Construction compound, working space and access for construction.	Works Nos. 3, 4
Borthwick Mains	24, 25	444	Construction compound, working space and access for construction.	Works Nos. 3, 4
Birky Side	24, 25	450	Construction compound, working space and access for construction.	Work No. 4
Birky Side	25	451, 452	Construction compound, working space and access for construction.	Work No. 4
Birky Side	25, 26	454, 456	Construction compound, working space and access for construction.	Work No. 4
Maggie Bowies Glen	26	457, 458	Construction compound, working space and access for construction.	Work No. 4
Maggie Bowies Glen	26, 27	459, 460	Construction compound, working space and access for construction.	Work No. 4
Maggie Bowies Glen	27	461, 462, 463, 464, 465, 467, 468	Construction compound, working space	Work No. 4

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			and access for construction.	
Maggie Bowies Glen	27, 28	466, 469, 470	Construction compound, working space and access for construction.	Work No. 4
Tynehead	28	475, 478, 480	Construction compound, working space and access for construction.	Work No. 4
Tynehead	28, 29	482	Construction compound, working space and access for construction.	Work No. 4
Tynehead	29	484, 485, 486, 487	Construction compound, working space and access for construction.	Work No. 4
Tynehead	29, 30	488, 490	Construction compound, working space and access for construction.	Work No. 4
Tynehead	30	491	Construction compound, working space and access for construction.	Work No. 4
Tynehead	30, 31	495	Construction compound, working space and access for construction.	Work No. 4
Tynehead	31	499, 502	Construction compound, working space and access for construction.	Works Nos. 4, 5
<b>In the local government area of Scottish Borders—</b>				
Tynehead	30	1, 5, 6	Construction compound, working space and access for construction.	Work No. 4

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Tynehead	30, 31	9	Construction compound, working space and access for construction.	Work No. 4
Tynehead	31	10, 11, 12a, 12b, 15	Construction compound, working space and access for construction.	Work No. 5
Tynehead and Cowbraehill	31, 32	12	Construction compound, working space and access for construction.	Work No. 5
Cowbraehill	32	17, 18, 19, 21	Construction compound, working space and access for construction.	Work No. 5
Cowbraehill and Falahill	32, 33	22	Construction compound, working space and access for construction.	Works Nos. 5, 5A, 5B
Falahill	33	24, 28, 30, 30a, 31, 32, 40, 41	Construction compound, working space and access for construction.	Works Nos. 5, 5A, 5B
Falahill	33, 34	33	Construction compound, working space and access for construction.	Works Nos. 5, 5A, 5B
Falahill	34	46, 47	Construction compound, working space and access for construction.	Works Nos. 5, 5A
Falahill	34, 35	52	Construction compound, working space and access for construction.	Work No. 5
Falahill	35	55, 56, 57, 59, 60, 61	Construction compound, working space	Work No. 5

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			and access for construction.	
Heriot	35, 36	64, 65	Construction compound, working space and access for construction.	Works Nos. 5, 5C
Heriot	36	67, 74, 76, 77, 79, 88	Construction compound, working space and access for construction.	Works Nos. 5, 5C, 5D
Heriot	36, 37	85a, 91, 123	Construction compound, working space and access for construction.	Works Nos. 5, 5D, 5E
Heriot	37	101, 102, 113, 114, 115	Construction compound, working space and access for construction.	Works Nos. 5D, 5F
Hangingshaw	37	121a, 125, 126, 128, 132, 140, 144	Construction compound, working space and access for construction.	Works Nos. 5, 5D, 5G
Stagebank	38	146, 147, 153, 154, 155	Construction compound, working space and access for construction.	Works Nos. 5, 6
Stagebank	38, 39	158, 159	Construction compound, working space and access for construction.	Works Nos. 5, 6
Stagebank	39, 40	159a, 161	Construction compound, working space and access for construction.	Work No. 6
Haltree	40	167, 168, 169, 170	Construction compound, working space and access for construction.	Work No. 6

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Crookston	41	173, 174	Construction compound, working space and access for construction.	Work No. 6
Crookston	41, 42	175	Construction compound, working space and access for construction.	Work No. 6
Crookston	42	176	Construction compound, working space and access for construction.	Work No. 6
Crookston Cottage	42	177	Construction compound, working space and access for construction.	Work No. 6
Crookston	42, 43	179, 181	Construction compound, working space and access for construction.	Works Nos. 6, 7
Hazelbank	43	182, 184, 185, 187, 189	Construction compound, working space and access for construction.	Works Nos. 6, 7
Hazelbank	43, 44	191	Construction compound, working space and access for construction.	Works Nos. 6, 7, 7A
Fountainhall	43, 44	193	Construction compound, working space and access for construction.	Works Nos. 7, 7A
Fountainhall	44	191a, 192, 200, 209, 217, 218, 218a, 220, 221, 222, 222a, 222b, 222c, 224	Construction compound, working space and access for construction.	Works Nos. 7, 7A, 7B
Fountainhall	44, 45	223	Construction compound, working space	Works Nos. 7, 7B

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			and access for construction.	
Fountainhall	45	224a, 225a, 233, 236, 237, 238, 242	Construction compound, working space and access for construction.	Works Nos. 7, 7B
Fountainhall	45	235	Access for construction of fence.	Works Nos.7, 7B
Fountainhall	45, 46	243	Construction compound, working space and access for construction.	Work No. 7
Plenploth	46	245, 246, 248	Construction compound, working space and access for construction.	Work No. 7
Plenploth	46, 47	250	Construction compound, working space and access for construction.	Work No. 7
Plenploth	47	251, 252, 253, 255, 255a, 257	Construction compound, working space and access for construction.	Work No. 7
Torquhan	47, 48	262, 264, 265	Construction compound, working space and access for construction.	Work No. 7
Torquhan	48	263	Construction compound, working space and access for construction.	Work No. 7
Torquhan	48, 49	266	Construction compound, working space and access for construction.	Work No. 7
Pirn House	48	270, 272	Construction compound, working space	Work No. 7

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			and access for construction.	
Pirn House	48, 50	275	Construction compound, working space and access for construction.	Work No. 7
Torquhan	49	267, 268	Construction compound, working space and access for construction.	Work No. 7
Torquhan	50	271a	Construction compound, working space and access for construction.	Work No. 7
Pirn House	50	277	Construction compound, working space and access for construction.	Work No. 7
Watherston	50	280, 281, 282, 283, 284, 285, 286, 287, 288, 289	Construction compound, working space and access for construction.	Work No. 7
Watherston	51	293, 294, 295, 295a, 297, 298, 299, 300, 301, 303	Construction compound, working space and access for construction.	Work No. 7
Watherston	51, 52	305, 306	Construction compound, working space and access for construction.	Work No. 7
Watherston	52	306a	Construction compound, working space and access for construction.	Work No. 7
Galabank	52	308, 311, 312, 313, 314, 315, 316, 318a, 320, 323	Construction compound, working space and access for construction.	Work No. 7

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Stow	54	338	Construction compound, working space and access for construction.	Works Nos. 7, 8
Stow	Stow plan	344, s3	Construction compound, working space and access for construction.	Work No. 8
Stow	55	347, 348	Construction compound, working space and access for construction.	Work No. 8
Stow	55, 56	349, 350	Construction compound, working space and access for construction.	Work No. 8
Stow	56, 57	353	Construction compound, working space and access for construction.	Work No. 8
Stow	57	354, 355, 356, 360, 362, 363, 365	Construction compound, working space and access for construction.	Work No. 8
Stow	57, 58	366	Construction compound, working space and access for construction.	Work No. 8
Stow	57, 58, 59	369	Construction compound, working space and access for construction.	Work No. 8
Stow	58	366a	Construction compound, working space and access for construction.	Work No. 8
Ferniehirst	58, 59	372	Construction compound, working space	Work No. 8

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			and access for construction.	
Bow	59	394, 395, 396, 397	Construction compound, working space and access for construction.	Works Nos. 8, 8A
Ferniehirst	59	374, 376, 378, 378a, 379	Construction compound, working space and access for construction.	Works Nos. 8, 8A
Bow	59, 60	398, 402	Construction compound, working space and access for construction.	Works Nos. 8, 8A
Bow	60	403, 404, 405, 406a	Construction compound, working space and access for construction.	Work No. 8
Bowshank	60	407, 409, 500, 502, 503, 504, 506, 507, 508, 513, 514, 515, 515a, 520, 522	Construction compound, working space and access for construction.	Work No. 8
Bowshank	60, 61	515b, 523	Construction compound, working space and access for construction.	Work No. 8
Bowshank	61	515c, 527, 530, 531	Construction compound, working space and access for construction.	Work No. 8
Bowshank	62	533, 535, 536	Construction compound, working space and access for construction.	Works Nos. 8, 9
Bowland Bridge	62	537, 538, 543, 545, 546	Construction compound, working space and access for construction.	Works Nos. 8, 9

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Bowland Wood	63	549, 550, 551, 552	Construction compound, working space and access for construction.	Work No. 9
Whitelee House	64	560, 561, 562, 563, 564, 565, 566, 568	Construction compound, working space and access for construction.	Work No. 9
Whitelee House	64, 65	566a	Construction compound, working space and access for construction.	Work No. 9
Whitelee House	65	566b	Construction compound, working space and access for construction.	Work No. 9
Robin's Knowe	65	570, 571, 572, 574, 575, 576, 577, 577a, 577b, 581	Construction compound, working space and access for construction.	Work No. 9
Robin's Knowe	65, 66	582	Construction compound, working space and access for construction.	Work No. 9
Torwoodlee	66	582a, 587, 589	Construction compound, working space and access for construction.	Work No. 9
Torwoodlee Golf Course	66, 69	588	Construction compound, working space and access for construction.	Work No. 9
Torwoodlee	66, 70	602, 604	Construction compound, working space and access for construction.	Work No. 9
Torwoodlee	66, 67, 68	603	Construction compound, working space	Work No. 9

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			and access for construction.	
Torwoodlee	69	588a, 590, 591, 591a, 592, 593, 594, 595, 596, 597, 598	Construction compound, working space and access for construction.	Work No. 9
Torwoodlee Tunnel	70	606, 607, 608, 609, 610, 614, 616, 617	Construction compound, working space and access for construction.	Works Nos. 9, 10
Wood Street	70	619, 619a, 620, 620a, 621, 623, 623a	Construction compound, working space and access for construction.	Works Nos. 9, 10
Mill Park	70	624a	Construction compound, working space and access for construction.	Works Nos. 9, 10
Mill Park	70, 71	624, 625	Construction compound, working space and access for construction.	Works Nos. 9, 10
Kilnknowe Place	71	632, 633, 635, 636, 637, 639, 640, 641, 644, 647, 654, 655	Construction compound, working space and access for construction.	Work No. 10
Kilnknowe Place	71, 72	656	Construction compound, working space and access for construction.	Work No. 10
Plumtreehall Brae	71, 72	658, 659, 660, 661, 662	Construction compound, working space and access for construction.	Works Nos. 10, 10A, 10B
High Buckholmside	72	691, 692	Construction compound, working space and access for construction.	Work No. 10

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Low Buckholmside	72	693, 694, 695a, 696, 696a	Construction compound, working space and access for construction.	Work No. 10
Plumtreehall Brae	72	663, 666, 667, 668, 669, 672, 673, 676, 684, 687, 687a, 688, 690	Construction compound, working space and access for construction.	Works Nos. 10, 10A, 10B
Low Buckholmside	72, 73	695, 697, 699	Construction compound, working space and access for construction.	Works Nos. 10, 10C
Low Buckholmside	73	697a, 704, 708	Construction compound, working space and access for construction.	Works Nos. 10, 10C
Ladhope Vale	73	709, 710, 712	Construction compound, working space and access for construction.	Works Nos. 10, 10E
Currie Road	74	726, 728, 731, 731a, 732, 732a, 734, 736, 743, 743a, 748b, 750, 758, 762	Construction compound, working space and access for construction.	Works Nos. 10, 10D, 10E, 10F, 10G, 10H
Glenfield Road	75	763a, 765, 766, 770, 771	Construction compound, working space and access for construction.	Works Nos. 10, 10J
Glenfield Road	75, 76, 77	772	Construction compound, working space and access for construction.	Work No. 10
Glenfield Road	76	775, 776, 778	Construction compound, working space and access for construction.	Works Nos. 10, 10J
Woodstock Avenue	76	780, 781, 781a, 782, 784a, 785	Construction compound, working space	Work No. 10

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			and access for construction.	
Winston Place	76, 77	786a, 786b	Construction compound, working space and access for construction.	Work No. 10
Winston Place	77	787	Construction compound, working space and access for construction.	Work No. 10
Winston Road	77	788, 790, 791, 792, 794, 795	Construction compound, working space and access for construction.	Work No. 10
Galafoot	77	797, 797a, 798, 798a, 799, 802, 803, 804, 805, 807, 809, 810, 811	Construction compound, working space and access for construction.	Work No. 10
Tweedbank	77,78	812, 813	Construction compound, working space and access for construction.	Work No. 10
Tweedbank	78	815, 816, 822, 823, 823b, 824	Construction compound, working space and access for construction.	Works Nos. 10, 10K, 10L

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## SCHEDULE 8

(introduced by section 33)

### STATUTORY UNDERTAKERS, ETC.

- 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

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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 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 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 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 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 schedule—
- “gas transporter” has the meaning given by section 7(1) of the Gas Act 1986 (c. 44);
- “public telecommunications operator” means—
- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984 (c. 12) applies, to run a public telecommunications system; or
  - (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; 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.

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## SCHEDULE 9

(introduced by section 36)

### LISTED BUILDINGS AND CONSERVATION AREAS

- 1 (1) Subject to sub-paragraph (2) below, if a listed building was such a building immediately before 21 March 2003 and is specified in columns (1), (2) and (3) of the following table—
- (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) In the case of any building specified in columns (1), (2) and (3) of the following table in relation to which any description of works is specified in column (4) of that table, sub-paragraph (1) above shall have effect as if the references to works carried out in exercise of the powers conferred by Part 1 of this Act were, so far as concerns works of demolition or alteration (as opposed to extension), to works so carried out which are of a description specified in relation to it in that column.
- (3) Paragraphs (a) to (d) of sub-paragraph (1) above shall also apply in relation to a listed building which was not such a building immediately before 21 March 2003.
- (4) If a building included in a conservation area and not a listed building—
- (a) was not included in a conservation area immediately before 21 March 2003; or
  - (b) was included in such an area immediately before that date and is specified in columns (1), (2) and (3) of the following table,
- 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.
- (5) 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.

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## TABLE

## BUILDINGS AUTHORISED TO BE DEMOLISHED OR ALTERED

<i>Local government area</i>	<i>Sheet of Parliamentary plans</i>	<i>Buildings authorised to be demolished or altered</i>	<i>Limit of authorised demolition or alteration</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
Midlothian	7	Glenesk Viaduct, Dalkeith	Structural repairs to the spandrels and wingwalls. Provision of cantilevered walkway.
Midlothian	8	Former Eskbank and Dalkeith Station platforms	Re-pointing and masonry repairs.
Midlothian	8	Melville Road Bridge, Eskbank (Overbridge 13)	Repairs and re-pointing to masonry and brickwork. Waterproofing works to bridge arch.
Midlothian	8	Lasswade Road Bridge, Eskbank (Overbridge 14)	Re-pointing of bridge arch ring.
Midlothian	8	Bonnyrigg Road, Eskbank (Overbridge 15)	Re-pointing. Replacement of damaged stonework.
Midlothian	11	Dalhousie Mains Bridge, Lothian Bridge (Underbridge 17)	Re-pointing and repairs to abutments and wingwalls. Reconstruction of spandrel wall on east side of bridge. Replacement of handrails. Cleaning and repainting of cantilever supports.
Midlothian	11, 12	Newbattle Viaduct, Lothian Bridge	Re-pointing, repairs and

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			replacement of bricks.
Midlothian	13	Murderdean Road Bridge, Newtongrange (Overbridge 19)	Repairs and re-pointing to masonry. Removal of infill material.
Midlothian	15	Redhaugh Farm Bridge, Redhaugh (Overbridge 21)	Repairs and re-pointing to abutments and wingwalls. Shot blast cleaning and painting bridge girders. Construction of parapets to replace existing handrails.
Midlothian	16	Povert Road Bridge, Redhaugh (Overbridge 22)	Repairs and re-pointing. Waterproofing works to bridge arch.
Midlothian	21	Existing Footbridge, Fushiebridge (Footbridge 28)	Removal of bridge superstructure.
Midlothian	21	Former Fushiebridge Station Bridge, Fushiebridge (Overbridge 29)	Repairs and re-pointing. Waterproofing works to bridge arch.
Midlothian	22	Catcune Farm Bridge, Catcune (Overbridge 30)	Demolition and replacement of bridge.
Midlothian	22	Catcune Farm Accommodation Bridge, Catcune (Underbridge 31)	Re-pointing and repairs. Waterproofing works to bridge arch. Removal and replacement of wrought iron handrail.
Midlothian	24	Castle Road Bridge, Borthwick Mains (Overbridge 32)	Repairs and re-pointing.

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Midlothian	24	Borthwick Mains Bridge, Borthwick (Underbridge 33)	Repairs to masonry. Removal and replacement of wrought iron handrail.
Midlothian	25	Halflaw Kiln Bridge, Birky Side (Overbridge 34)	Demolition and replacement of bridge superstructure. Repairs and re-pointing to bridge.
Midlothian	26	Halflaw Bow's, Maggie Bowies Glen (Overbridge 35)	Demolition and replacement of bridge deck and parapets. Repairs to masonry.

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.

## SCHEDULE 10

(introduced by section 46)

### CODE OF CONSTRUCTION PRACTICE

1 Before commencing construction of the authorised works located in the area of a local planning authority the authorised undertaker shall secure that there is submitted to that local planning authority for its written approval—

(a) the code of construction practice; and

(b) one or more draft local construction codes relating to so much of the authorised works as is situated in the area of the local planning authority concerned.

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

3 The authorised undertaker may with the approval of the local planning authority (and shall if so required by the local planning authority) amend or replace the code of construction practice or any local construction code.

4 The provisions of the code of construction practice and any local construction code, as from time to time amended or replaced shall have effect as conditions to which section 48 applies.

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## SCHEDULE 11

(introduced by section 47)

### WORKS AFFECTING THE RIVER TWEED SPECIAL AREA OF CONSERVATION

#### PART 1

##### WORKS REQUIRING SPECIAL MEASURES

- 1 This Part of this schedule applies to the sites specified in the table.
- 2 The authorised undertaker shall not undertake any works for the protection of river banks at sites ID8, ID9, ID11, ID22, ID24, ID27, ID28, ID29, or ID37.
- 3 The location of any work for the protection of river banks to be undertaken by the authorised undertaker at sites ID4, ID18, ID35, ID36, ID38, ID41, ID42 and ID43 shall be approved by SNH.
- 4 Before commencing the construction of any works, or carrying out any operations, at any of the sites to which this schedule applies, the authorised undertaker shall consult SNH regarding—
  - (a) detailed engineering design;
  - (b) construction methods;
  - (c) pollution control;
  - (d) timing of works and operations;
  - (e) conservation of specific habitats or of habitats of specific species,and shall implement such detailed mitigation measures regarding such matters as SNH may require.
- 5 The authorised undertaker shall secure that the code of construction practice is amended from time to time as appropriate so as to procure the carrying out of measures required pursuant to paragraph 4.
- 6 Where and to the extent that any measure required by paragraph 4 cannot be dealt with in the code of construction practice (as from time to time amended or replaced), it shall be specified in an agreement to which the local planning authority and the authorised undertaker are party.
- 7 Any provision amending the code of construction practice pursuant to paragraph 5, and the provisions of any agreement entered into pursuant to paragraph 6, shall have effect as a condition to which section 48 applies.

#### PART 2

##### WORKS NOT REQUIRING SPECIAL MEASURES

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<i>Location ID No.</i>	<i>Description</i>	<i>Co-ordinates</i>	
<i>(1)</i>	<i>(2)</i>	<i>X</i>	<i>Y</i>
			<i>(3)</i>
12	Underbridge 5, Crookstone	341930	652185

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21	Underbridge 62, Pirnhouse	344445	647576
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**SCHEDULE 12**  
*(introduced by section 50)*

PROVISIONS OF ORIGINAL ENACTMENTS APPLIED TO AUTHORISED WORKS

<i>Enactment</i>	<i>Provisions applied</i>
<i>(1)</i>	<i>(2)</i>
Musselburgh and Dalkeith Water Act 1871 (c.cxxxiii)	Sections 14, 15 and 16
Melrose District Water Order Confirmation Act 1904 (c.cxlvii)	In the Melrose District Water Order 1904, section 9
Edinburgh and District Water Order Confirmation Act 1904 (c.lxxxviii)	In the Edinburgh and District Water Order 1904, section 7
Galashiels Drainage and Burgh Extension Order Confirmation Act 1908 (c.cxxviii)	In the Galashiels Drainage and Burgh Extension Order 1908, section 16
Edinburgh Corporation Order Confirmation Act 1970 (c.lx)	In the Edinburgh Corporation Order 1970, section 25
Edinburgh Corporation Order Confirmation Act 1971 (c.cxxvii)	In the Edinburgh Corporation Order 1971, section 36

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**Changes and effects yet to be applied to :**

- s. 27(1) modified by [S.S.I. 2011/14 art. 2](#)