

GLASGOW AIRPORT RAIL LINK ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Land

Compulsory purchase procedures

58. After the Act has been enacted, the first stage of the procedures will be the service on each landowner whose land is required of a notice (called a notice to treat) under section 17 of the [Lands Clauses Consolidation \(Scotland\) Act 1845 \(c.19\)](#) (in the Act called “the 1845 Lands Act”). This notice will inform those with an interest in land of the intention of the authorised undertaker to acquire the land or the rights described in the notice. Service of a notice to treat results in the authorised undertaker being in the same position as if a binding contract for the purchase of the land had been completed. As an alternative to serving a notice to treat, the authorised undertaker may acquire land by a general vesting declaration (on this see [paragraphs 192 to 196](#)).
59. The authorised undertaker may need to enter land to start the works in advance of completing its purchase. Before it can do so it must serve a notice (called a notice of entry) on the landowner.
60. Where a landowner is unwilling or unable to sell the authorised undertaker may acquire the land by executing a notarial instrument¹. The same procedure applies where the authorised undertaker has made diligent efforts to find the landowner but has been unable to do so. These provisions are intended to ensure that a landowner cannot hold up the scheme unreasonably by refusing to sell and that the scheme can go ahead even if the landowner cannot be traced.
61. In practice an authority having compulsory purchase powers will often be able to buy land by agreement without having to resort to the formal statutory procedures. When this happens the Lands Clauses Acts give powers of sale to landowners (such as trustees) who otherwise might not be at liberty to sell. Although land may be purchased by agreement, the compensation rules will be the same as if the land had been purchased compulsorily.

¹ “Notarial instrument”: the term used in sections 74 to 76 of the 1845 Lands Act when referring to the formal document that in these circumstances will vest land in the authorised undertaker. The expression is only a description. There is no special style laid down for this type of deed.