

GLASGOW AIRPORT RAIL LINK ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Works

Section 10 – Discharge of water

41. **Section 10** ensures that the authorised undertaker can effectively drain its works, both during construction and thereafter. Subsection (1) enables the authorised undertaker to use any available watercourse or any public sewer or drain for drainage purposes. It provides that within the limits of deviation or the limits of land to be acquired or used¹ the authorised undertaker may lay down, take up or alter pipes or make openings into or connections with the watercourse, public sewer or drain.
42. Under subsection (2) water may not be discharged into an artificial watercourse or a public sewer or drain without the consent of the person to whom it belongs (who in the case of a public sewer or drain will be 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 Scottish Water to provide sewerage for their area) or the roads authority), but although consent may be given subject to reasonable terms and conditions, it cannot be unreasonably withheld.
43. Under subsection (3) an opening into a sewer or drain will have to be made in accordance with plans approved by the person to whom the sewer or drain belongs and subject to such supervision as he provides, but plan approval cannot be unreasonably withheld
44. Subsection (4) requires the authorised undertaker to take such steps as are reasonably practicable to secure that water is free from gravel, soil or other solid substances or from oil or matter in suspension. This might include installation of gullies, filter drains or settlement ponds² to separate out such matter from clean water before the water is discharged into a stream, watercourse or public sewer or drain. The precise means of separating such matter from clean water will be determined during the design process in consultation with all appropriate people and bodies, including the roads authority and the Scottish Environment Protection Agency, “SEPA”.
45. Subsection (5) provides that any disagreement between the authorised undertaker and a person owning an artificial watercourse or a public drain or sewer shall be resolved by arbitration. (**Section 35** provides for the way in which any arbiter is appointed.)
46. Subsection (6) provides for the continued operation of both Part IV of the [New Roads and Street Works Act 1991 \(c.22\)](#) and the [Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2005 \(S.S.I.2005/348\)](#) in tandem with this section. Part IV of

¹ For explanation of this expression see paragraph 65 below.

² A “gully” is a concrete box with a pipe and a metal grid on top: solid materials settle on the bottom of the box and water to be discharged continues along the pipe. A “filter drain” (also known as a “French drain”) is a ditch filled with stones which act to remove large solid particles from the water before the water is discharged into the ground or a drainage system. A “settlement pond” is a large pond that allows water to sit while slow settlement of particles takes place.

*These notes relate to the Glasgow Airport Rail Link Act 2007
(asp 1) which received Royal Assent on 15 January 2007*

the New Roads and Street Works Act 1991 contains a detailed code regulating the carrying out of works in roads by utilities and others. As a result of subsection (6), the authorised undertaker will have to comply with all the requirements of Part IV as to the giving of notice of the works, the compliance with directions given by the road works authority, the duty to co-operate with the road works authority and other undertakers, safety measures, and the provisions for the avoidance of danger, delay or obstruction. The Water Environment (Controlled Activities) (Scotland) Regulations 2005 provide the regulatory framework whereby the authorised undertaker's activities which impact on the water environment will be controlled and under which compliance with the regulatory requirements will be enforced. SEPA is responsible for authorising 'controlled activities' under these Regulations.

47. In the absence of **section 10** effective drainage of the works would be subject to the risk of legal action for nuisance in respect of discharges, and subject also to successful private negotiation as regards the use of public sewers or drains. The section is intended to ensure that works authorised by the Parliament can be drained without the risk of legal action or failed private negotiations and will also ensure that drainage from these works is subject to the same pollution controls as other railway and road works.