

GLASGOW AIRPORT RAIL LINK ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Land

Compensation

Section 24 – Further powers of entry

125. **Section 24** is also a standard provision¹. The 1845 Lands Act permits entry on land under compulsory purchase powers only after full payment has been made (1845 Lands Act, section 83) or after the body with the compulsory purchase powers has deposited in a bank as security either the compensation claimed by the landowner or a sum representing the value of the land as valued by a valuer appointed by the sheriff (section 84). Sections 85 and 86 require the money to remain in the bank as a security to be distributed as directed by the sheriff. Section 87 imposes financial penalties on entering land without complying with the procedures, and in the event of a landowner refusing entry even after full payment has been made, the only recourse is to apply to the sheriff for a possession order. The procedures are cumbersome and time consuming. In England and Wales they have been simplified and modernised so as to allow entry after the landowner has been given notice². The purpose of **section 24** of the Act is to allow this modern procedure to apply.
126. Where a notice to treat has been served in respect of any land subject to compulsory purchase subsection (1) enables the authorised undertaker to enter the land and take possession of it.
127. Under subsection (2), at least three months' prior notice of entry must be given to the owner and the occupier of the land.
128. Subsection (3) enables the authorised undertaker to exercise these powers without complying with sections 83 to 89 of the 1845 Lands Act.
129. Where the authorised undertaker enters land under **section 24**, subsection (4) provides that the authorised undertaker must pay compensation as though sections 83 to 89 had been complied with. **Section 24** does not therefore alter a landowner's right to compensation, including the right to receive an advance payment of 90% of the compensation, as required by section 48 of the **Land Compensation (Scotland) Act 1973 (c.56)**. Subsection (5) makes it clear that the obligation to make an advance payment is not affected by **section 24**.
130. The object of this section is to ensure that the works are not delayed by negotiations with landowners about the compensation to which they are entitled. As landowners are to be obliged to give up their land in any event, the amount of compensation is a completely separate issue from possession of the land.

¹ See e.g. *The Stirling-Alloa- Kincardine and Linked Improvements Act 2004 section 24*, *British Railways (No.2) Order Confirmation Act 1994 (c.ii)*, s.22, *City of Edinburgh (Guided Buses) Order Confirmation Act 1998 (c.iii)*, s.14.

² See *Compulsory Purchase Act 1965 (c.56)*, s.11.