

EXECUTIVE NOTE

THE EDINBURGH TRAM (LINE ONE) ACT 2006 (EXTENSION OF TIME FOR LAND ACQUISITION) ORDER 2011

SSI 2011 No. 126

The above instrument was made on the application of the City of Edinburgh Council, ('the Council') which is the authorised undertaker for the purposes of sections 23, 24 and 41 of the Edinburgh Tram (Line One) Act 2006 ('the Act'). It is made in exercise of the powers conferred by section 41 of that Act. The instrument is subject to negative resolution procedure.

Background and Policy Objective

The Act authorises the construction and operation of a tramline in Edinburgh forming a loop from St Andrew Square, along Leith Walk to Leith, west to Granton, south to Haymarket and back to St Andrew Square via Princes Street; and for connected purposes.

Section 40(1) of the Act provides that the powers of the authorised undertaker for the compulsory acquisition of land under section 23 of the Act and for the compulsory acquisition of servitudes or other heritable or movable rights over land under section 24 of the Act shall cease five years from the date on which the Act came into force. The Act came into force on 8th May 2006 (Royal Assent).

Section 41 of the Act provides that, on the application of the authorised undertaker, the Scottish Ministers may, by order, extend the five year period specified in section 40(1) provided that (a) such application is made prior to the expiry of the period or any extension to it; and (b) the five year period specified in section 40(1), and any extension to it, shall not exceed ten years in total.

During the passage of the Bill for the Act, the Council agreed many side agreements with landowners including some to minimise land take and to acquire land and other rights only when construction began and as the construction programme required.

There is a continuing contractual dispute with the infrastructure contractor (a consortium comprising Bilfinger Berger, Siemens and Construcciones y Auxiliars de Ferrocarriles) which has resulted in a significant delay to the design and construction programmes.

Until the contractual position is resolved and all aspects of the design completed, the Council considers that it is difficult to project a revised programme of construction and acquisition. The Council considers it necessary to seek an extension to the period for the exercise of the powers under sections 23 and 24 and prudent to do so to the full extent permitted by the Act. If the period for the exercise of these powers of acquisition is not extended, this would introduce significant risk to the project if landowners sought to re-negotiate the terms agreed previously for the transfer of the required land, or decided for any other reason to resist the completion of the sale

The Council accordingly made application to the Scottish Ministers for an extension of the initial five year period. This purpose of this Order is to extend the period for the exercise of the powers in sections 23 and 24 of the Act until 7 May 2016.

Consultation

The request for an extended timescale to the Act relates to the anticipated acquisition of the remaining identified rights after the expiry date of the initial five year period specified in section 40(1) of the Act. The extension and this instrument are therefore technical in nature. As a result no formal public consultation has been undertaken.

Impact Assessments

An equality impact assessment has not been completed. There are no equality impact issues.

Financial Effects

The instrument has no new financial effects on the Scottish Government, local government or on business. The changes proposed will extend the time period specified in section 40(1) but will have no other implications for the legislation or its application.

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