



Transport and Works (Scotland) Act 2007

2007 asp 8

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 8th February 2007 and received Royal Assent on 14th March 2007

An Act of the Scottish Parliament to provide for the making of orders related to, or to matters connected with, the construction or operation of railways, tramways, other guided transport systems, trolley vehicle systems and inland waterways; to make changes to procedures applicable to orders and schemes under the Roads (Scotland) Act 1984, the Harbours Act 1964 and the Pilotage Act 1987; to make further provision as regards grants for purposes relating to transport; and for connected purposes.

PART 1

ORDERS AUTHORISING WORKS ETC.

Power to make orders

1 Orders as to transport systems and inland waterways

- (1) The Scottish Ministers may make an order relating to, or to matters connected with—
- (a) the construction or operation of a transport system of any of the following kinds—
 - (i) a railway which starts, ends and remains in Scotland,
 - (ii) a tramway,
 - (iii) any system (other than a railway or tramway) using a mode of guided transport,
 - (iv) a trolley vehicle system, or
 - (b) the construction or operation of an inland waterway.
- (2) The Scottish Ministers shall not make an order under paragraph (b) of subsection (1) if in their opinion the primary object of the order could be achieved by means of an order under the Harbours Act 1964 (c. 40).

Commencement Information

II S. 1 in force at 28.12.2007 by [S.S.I. 2007/516](#), [art. 2](#)

Changes to legislation: There are currently no known outstanding effects for the Transport and Works (Scotland) Act 2007. (See end of Document for details)

2 Subject-matter of orders under section 1

- (1) Without prejudice to the generality of section 1, the matters as to which provision may be made by an order under that section include those set out in schedule 1.
- (2) An order under section 1 may make provision in relation to more than one scheme, system or mode of transport.
- (3) An order under section 1 may—
 - (a) apply, modify or exclude any enactment which relates to any matter as to which an order could be made under that section,
 - (b) make such amendments, repeals and revocations of enactments of local application as appear to the Scottish Ministers to be necessary or expedient in consequence of any provision of the order or otherwise in connection with the order.
- (4) The provisions that may be made by an order under section 1 include any provision that appears to the Scottish Ministers to be necessary or expedient for giving full effect to—
 - (a) any other provision of the order,
 - (b) any provision of an earlier order under that section, or
 - (c) any provision which is contained in—
 - (i) an Act passed before the time when this Part of this Act is first wholly in force, or
 - (ii) an instrument made under an Act before that time,
 and which is of a kind which could be included in an order under that section.
- (5) An order under section 1 may make provision—
 - (a) as to the issuing of a fixed penalty notice in respect of an offence created by the order,
 - (b) as to the enforcement of a fixed penalty under such a notice,
 - (c) authorising byelaws made by virtue of the order to include provision of the nature referred to in paragraph (a) or (b) in respect of an offence created by the byelaws.
- (6) In subsection (5)(a), “fixed penalty notice” means a notice offering the opportunity, by paying a fixed penalty, to discharge any liability to be convicted of the offence to which the notice relates.
- (7) An order under section 1 shall not extinguish any public right of way over land unless the Scottish Ministers are satisfied—
 - (a) that an alternative right of way has been or will be provided, or
 - (b) that the provision of an alternative right of way is not required.

Modifications etc. (not altering text)

C1 S. 2 applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), ss. [52\(2\)-\(4\)](#), [70\(1\)](#)

Commencement Information

I2 S. 2 in force at 28.12.2007 by [S.S.I. 2007/516](#), [art. 2](#)

3 Crown land

- (1) If the appropriate authority agrees—
- (a) a relevant interest may be acquired compulsorily by virtue of an order under section 1,
 - (b) any provision of this Act or of such an order (other than a provision by virtue of which an interest in land is compulsorily acquired) may apply in relation to a Crown interest, and
 - (c) any provision of an order under section 18 may apply in relation to a relevant interest.
- (2) In subsection (1), a relevant interest is an interest (not being itself a Crown interest) which subsists in land in which there is a Crown interest.
- (3) In this section, “Crown interest” means an interest—
- (a) belonging to Her Majesty in right of the Crown or in right of Her private estates,
 - (b) belonging to an office-holder in the Scottish Administration or to a government department,
 - (c) held in trust for Her Majesty for the purposes of the Scottish Administration by such an office-holder, or
 - (d) held in trust for Her Majesty for the purposes of a government department.
- (4) In this section, the appropriate authority, in the case of—
- (a) land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners,
 - (b) other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration who, or as the case may be the government department which, has management of the land [^{F1}or the relevant person],
 - (c) land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
 - (d) land belonging to, or held in trust for Her Majesty for the purposes of the Scottish Administration by, such an office-holder, means that office-holder,
 - (e) land belonging to, or held in trust for Her Majesty for the purposes of, a government department, means that government department.
- [^{F2}(4A) In subsection (4), “relevant person”, in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.]
- (5) The references in subsections (3)(a) and (4)(c) to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).
- (6) It is for the Scottish Ministers to determine, for the purposes of this section, any question arising as to what authority is the appropriate authority in relation to any land; and their determination is final.

Textual Amendments

- F1** Words in s. 3(4)(b) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 38\(a\)](#)

Changes to legislation: There are currently no known outstanding effects for the Transport and Works (Scotland) Act 2007. (See end of Document for details)

F2 S. 3(4A) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 38\(b\)](#)

Modifications etc. (not altering text)

C2 Ss. 3-10 applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 52(2)(3), 70(1)**

Commencement Information

I3 S. 3 in force at 28.12.2007 by [S.S.I. 2007/516](#), **art. 2**

Procedure for making orders

4 Applications

- (1) The Scottish Ministers may make an order under section 1 on an application made to them in accordance with rules made under this section.
- (2) The Scottish Ministers may make rules as to—
 - (a) the form of an application under this section,
 - (b) the documents and information to be submitted with the application,
 - (c) the giving of notice of the application (including the publication of any such notice),
 - (d) consultation to be undertaken before the application is made, and
 - (e) any other steps to be taken—
 - (i) before the application is made, or
 - (ii) in connection with the making of the application.
- (3) The power to make such rules includes power to make provision—
 - (a) for (or in connection with) requiring the Scottish Ministers, in such cases or circumstances as may be prescribed in the rules, to give to a person who proposes to make an application under this section an opinion on the information, if any, to be supplied in connection with the application,
 - (b) as to the publicity to be given to any environmental information provided in relation to an application under this section.
- (4) Any provision made—
 - (a) by virtue of subsection (2)(b) as to the provision of information by a relevant authority to a person for the purposes of an application which the person proposes to make, or
 - (b) by virtue of subsection (2)(d),
 may include provision requiring compliance with general or special directions given by the Scottish Ministers.
- (5) Rules under this section may include provision authorising the Scottish Ministers—
 - (a) to dispense with compliance with rules that would otherwise apply, or
 - (b) to require compliance with rules that would not otherwise apply,
 in any case where they consider it appropriate to do so.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works (Scotland) Act 2007. (See end of Document for details)

- (6) Rules under this section may provide for fees of such amounts as may be determined by, or in accordance with, the rules to be payable to the Scottish Ministers in connection with applications made under this section.
- (7) In subsection (4)(a), “relevant authority” means ^{F3}...—
- (a) Scottish Natural Heritage,
 - (b) the Scottish Environment Protection Agency,
 - (c) a local authority, and
 - (d) a National Park authority.
- [^{F4}(e) Historic Environment Scotland.]

Textual Amendments

- F3** Words in s. 4(7) repealed (31.12.2020) by [The Environmental Impact Assessment \(Transport\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019](#) (S.S.I. 2019/415), regs. 1, **3(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 4(7)(e) inserted (16.5.2017) by [The Transport and Works \(Scotland\) Act 2007 \(Environmental Impact Assessment\) Regulations 2017](#) (S.S.I. 2017/138), regs. 1, **3** (with reg. 7)

Modifications etc. (not altering text)

- C2** Ss. 3-10 applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017](#) (c. 7), ss. **52(2)(3)**, **70(1)**

Commencement Information

- I4** S. 4 in force at 28.12.2007 by [S.S.I. 2007/516](#), art. 2

5 Cases where ^{F5}... Member States are affected

- (1) The power to make rules under subsection (2) of section 4 includes power to make, for a case where an application has been made under that section and [^{F6}a] Member State is affected by the project in question, rules as to—
- (a) the provision by the Scottish Ministers to—
 - (i) the Member State,
 - (ii) authorities in that state, or
 - (iii) the public of that state,of documents and information relating to the application,
 - (b) consultation by the Scottish Ministers with the Member State in connection with the application, or
 - (c) notification by the Scottish Ministers to the Member State of—
 - (i) the decision, or
 - (ii) matters relating to the decision,on the application.
- (2) For the purposes of subsection (1), the cases where [^{F7}a] Member State is affected by a project are those cases where—
- (a) it appears to the Scottish Ministers that the project would be likely to have significant effects on the environment in [^{F8}that] Member State, or
 - (b) [^{F9}that] Member State is likely to be affected significantly by the project and requests information relating to the application.