



Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004

2004 asp 10

PART 3

MISCELLANEOUS AND GENERAL

28 Powers of disposal, agreements for operation, etc.

- (1) The authorised undertaker may enter into all or any of the agreements described in subsections (2), (3) and (4) below.
- (2) The authorised undertaker may enter into and carry into effect agreements with respect to the transfer to and vesting in that other person of all or any of the functions of the authorised undertaker under this Act, including the powers conferred by this section.
- (3) The authorised undertaker may enter into and carry into effect agreements, on such terms and conditions as it thinks fit, to sell, feu, lease, excamb, charge or otherwise dispose of the whole or any part of the undertaking consisting of the authorised works and any land held for the purposes of, or in connection with, those works.
- (4) The authorised undertaker may enter into agreements with respect to the construction, maintenance and operation of the authorised works and any matter consequential, incidental or ancillary thereto.
- (5) The exercise of any power conferred by this Act by any person pursuant to any transfer agreement shall be subject to the same restrictions, liabilities and obligations as would apply if that power were exercised by the authorised undertaker making the transfer.
- (6) Where the exercise by any transferee of the powers conferred by this Act is subject to any statutory or other obligations or liabilities (including any obligations or liabilities pursuant to any undertaking or agreement given before or after the date on which this Act comes into force by Clackmannanshire Council or after that date by an authorised undertaker), then those obligations and liabilities shall not apply to or bind that authorised undertaker for so long as and to the extent that they apply to the transferee.

- (7) For so long as a transfer agreement remains in force references in this Act to the authorised undertaker shall, to the extent that the agreement so provides, have effect as references to the transferee.
- (8) Without prejudice to the powers of the authorised undertaker to terminate or vary a transfer agreement, a transfer agreement may specify circumstances in which that agreement shall cease to have effect before the expiry of any period specified in any such agreement.
- (9) A transfer agreement may include such supplementary, incidental, transitional and consequential provisions as the authorised undertaker may consider to be necessary or expedient.
- (10) Within 21 days of the completion of any transfer agreement the authorised undertaker making the transfer shall serve notice on the Scottish Ministers stating the name and address of the transferee and the date when the transfer is to take effect.
- (11) If an authorised undertaker fails, without reasonable excuse, to comply with the obligation imposed by subsection (10) above it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (12) On the completion of a transfer agreement the effect of which is to—
- (a) vest the railway works in; or
 - (b) transfer the powers of this Act relating to the railway works to,
- Network Rail as operator of the national railway infrastructure adjoining either end of the railway works, this section shall cease to have effect in relation to the railway works.
- (13) On the completion of a transfer agreement the effect of which is to—
- (a) vest the major road works in; or
 - (b) transfer the powers of this Act relating to the major road works to,
- Clackmannanshire Council as roads authority, this section shall cease to have effect in relation to the major road works.
- (14) In this section, unless the context otherwise requires—
- “functions” includes powers, duties and obligations;
 - “transferee” means a person to whom all or any of the property or functions of the authorised undertaker have been transferred by virtue of a transfer agreement; and
 - “transfer agreement” means an agreement entered into under subsection (2), (3) or (4) above.