EDINBURGH TRAM (LINE ONE) BILL
[AS AMENDED AT CONSIDERATION STAGE]

REVISED EXPLANATORY NOTES

INTRODUCTION
1. These revised Explanatory Notes are published to accompany the Edinburgh Tram (Line One) Bill as amended at Consideration Stage.

2. These Explanatory Notes have been prepared by Bircham Dyson Bell on behalf of the promoter, The City of Edinburgh Council (“the Council”), in order to assist the reader of the Edinburgh Tram (Line One) Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation, none is given.

BACKGROUND
4. The effect of this Bill is to authorise the construction and operation of a tram line in Edinburgh. The power to do this is to be given to the Council, which is referred to in the Bill as ‘the authorised undertaker’. The tram line will form 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.

5. The Council could not construct and operate the tram line without obtaining various permissions, some of which it can only obtain by means of a Bill, and others of which could be obtained separately, but it is convenient for the Council, those authorising the powers and those affected by them if they are sought at the same time.

6. The main permissions that the Council requires are:
   • those to acquire the land it requires for the construction and operation of the tram, compulsorily if necessary,
   • planning permission, and
   • permission to interfere with rights of way, both temporarily while building the tram line and permanently once it is built.
7. By being granted the powers by the Parliament, the Council will also be able to carry out the works without being liable for creating a legal nuisance.

8. The Bill is accompanied by several other documents and should be considered together with these. These “accompanying documents” are as follows:

- these Explanatory Notes, which set out the provisions of the Bill in non-technical language;
- an Estimate of Expense and Funding Statement, which sets out how much the project is expected to cost, and where the money is expected to come from;
- a Promoter’s Statement, which sets out how the Council authorised the promotion of the Bill, who has been notified about it, and how the Bill and all the accompanying documents can be inspected or bought;
- a Promoter’s Memorandum, which sets out why the powers in the Bill are being sought;
- Parliamentary maps, plans and sections, which show in detail where the tram line will run and other details on a large-scale map, as well as vertical sections of the proposed tram line;
- a Book of Reference, which sets out all the parcels of land that are proposed to be acquired, both temporarily and permanently;
- an Environmental Statement, which is a document required by European legislation for large projects, and sets out the expected effects of both the construction and operation of the tram on the environment; and
- an Assignation of Copyright and Licensing Agreement, which is a short document transferring copyright in the Bill to the Scottish Parliament and related matters.

9. This Bill is being introduced at the same time as the Edinburgh Tram (Line Two) Bill. Both Bills are drafted to stand alone, in the event that only one is passed by the Parliament. That is why there is a section of the tram line from St. Andrew Square to Haymarket that is common to both Bills. If both Bills are passed, there will still only be one section of the line from St. Andrew Square to Haymarket constructed.

THE BILL

Structure of the Bill

10. The Bill has been divided into Parts, each dealing with a separate area. Part 1 deals with the works, in other words what work will be carried out where. Part 2 deals with the acquisition of land and associated matters. Part 3 deals with penalty fares. Part 4 deals with the operation of the tram, Part 5 deals with miscellaneous powers that are being sought and Part 6 deals with miscellaneous aspects of the Bill.
Technical terms explained

11. Before embarking on an explanation of the provisions of the Bills, it would be helpful if certain technical terms were explained. The first is the difference between a ‘tramroad’ and a ‘road tramway’. In this Bill, ‘tramway’ by itself is used to describe the tram lines wherever they are running. ‘Road tramway’ means that part of the tramway that is running along a road, and ‘tramroad’ means the rest of the tramway, i.e. that part that is running off the road on its own exclusive line. For ‘limit of deviation’ see the explanation to section 2, and for ‘stopping up’ see the explanation to section 6. For an explanation of how planning permission is dealt with, see the explanation to section 70.

COMMENTARY ON SECTIONS

Part 1 – Works

12. The first Part of the Bill deals with the ‘works’, in other words what work is to be authorised to construct the tram line. The sections follow a fairly standard pattern for authorising trams which before the advent of the Scottish Parliament was done using the Private Legislation Procedure (Scotland) Act 1936 and in England and Wales is done by means of orders under the Transport and Works Act 1992.

Section 1 – Power to construct works

13. The first section of the Bill sets out the work that is to be authorised, divided into separate ‘works’. Without it, the works would not be authorised and the Council could be sued in nuisance if it attempted to carry them out. It is important for the viability of the scheme that the Council is not subject to such challenges.

14. Subsection (1) authorises the construction of the works described in schedule 1 to the Bill (the schedules are after the sections of the Bill). Note that if the Bill is passed, not every part of every work must be constructed – the Bill gives optional powers to the Council. It authorises the maximum extent of the works that will be required for the construction of the tram line to avoid the Council having to return to the Parliament for permission to construct further works.

15. Subsection (2) requires the works to be constructed exactly as shown on the plans that accompany the Bill, with the proviso that they can vary (‘deviate’) according to section 2.

16. In addition to subsection (1) which authorises the construction of the works which are specified in schedule 1, subsections (3) and (4) allow the Council to carry out other works, as long as this is either done within the limits of deviation (see the note for section 2 for an explanation of this term) or within land specified in schedule 6 (see subsection (7)). In the latter case it may only be used for the purpose given in schedule 6. Subsection (3) gives a list of typical works that will be undertaken, and subsection (4) allows any other types of work to be carried out as long as they are for the purposes of or in connection with constructing the tram line. The limit of the land described in schedule 6 is known as the ‘limit of land to be acquired or used’. Thus the ‘limit of deviation’ is for the works specified in schedule 1, and the ‘limit of land to be acquired or used’ is for any other land required for things other than the works (such as access routes, work sites or landscaping).
17. Subsection (5) allows the removal of the works should the tram line no longer be required at some point in the future.

18. Subsection (6) allows the Council to allow others to share any ducts or conduits it lays under the road. It might seem that the Council ought to be able to do such a thing anyway (and other similar things in the Bill), but local authorities can only do what a statute has authorised them to do. In addition, the Council may enter into an agreement with another party to carry out the provisions in the Bill (see the note for section 64) and that party will need the appropriate authorisation.

19. Subsection (7) sets out the restriction on where the additional works allowed by subsections (3) and (4) may be carried out.

Section 2 – Power to deviate

20. It is common practice to introduce a certain amount of flexibility in where the works may be constructed, otherwise the Bill would be impracticably strict. If the works had to be constructed along the centre lines indicated on the plans, then the slightest alteration that might be required would mean that the works were being constructed contrary to the authorisation. This section sets out the extent to which the works can deviate from the centre lines shown on the plans. In lateral terms, the works can deviate within lines that have been drawn on the plans called ‘limits of deviation’. In vertical terms, the works can deviate up to three metres upwards and to any extent downwards. Subsection (1) sets out these limits of deviation.

21. Subsection (2) allows flexibility in laying down single or double lines despite what is shown on the plans, although according to subsection (3) any change from the plans of this nature must be authorised by the road works authority.

22. Subsection (4) makes it clear that sidings can be built for tramroads without being shown on the plans as long as they are within the limits of deviation.

Sections 3 to 12 and 14 – Roads

23. Eleven of the next twelve sections deal with the single subject of roads. This is because even the slightest interference with the public’s right to pass along a road cannot be done without permission. Not only will the construction of the tram line require breaking up the road, installing equipment in it and leaving it there (all of which are interferences with the right to pass along the road), but in many cases the road layout will need to be reconfigured (either by raising or lowering the road level, or altering its course or shape) because the tram line is passing along or across it. All these types of work to roads are set out in separate sections. In this Bill, ‘road’ includes footpaths and cycletracks, because the definition of road that is used is the same as in the Roads (Scotland) Act 1984. The sections frequently refer to the ‘roads authority’ or the ‘road works authority’. The ‘roads authority’ is the Council with respect to all public roads except trunk roads, and Scottish Ministers in the case of trunk roads. The ‘road works authority’ is the roads authority in the case of public roads and the road managers in the case of a private road.
Section 3 – Power to alter the layout of roads

24. This section is primarily concerned with alterations to the shape of roads – the widening or narrowing of the footway or carriageway to accommodate the road. This cannot be done without permission as it will alter the right to pass along the road. The principle is that the alterations to road layouts that are specifically set out in schedule 2 will be able to be carried out without the need for further consents or approvals if the Bill is passed. Any other alterations to road layouts (should it later turn out that a certain kerb line needs to be aligned differently, for example) set out in subsection (2) can be carried out, but only with the consent of the roads authority.

25. Subsection (4) ensures that altering the kerblines and layouts of roads thereby alters the right to pass along the road for pedestrians and vehicles, otherwise for example if a kerbline was extended, vehicles would still technically be allowed to drive or park up to the original kerbline.

Section 4 – Power to keep apparatus in roads

26. The mere keeping of apparatus such as a pole or tram track in the road is an interference with the public right to pass along it – the public will not be able to walk or drive across that part of the road that is to contain a pole, for example. This section authorises the apparatus associated with the tram to be kept in or on the road. Subsection (1) sets out the right and subsection (2) defines some of the terms used.

Section 5 – Power to execute road works

27. Section 4 is not enough by itself to allow a pole or other apparatus to be placed in the road, as during the period that the apparatus is being placed there, more of the road will need to be occupied temporarily, or will otherwise be unavailable for passing along. There are also other provisions in the Act that will require road works for example, the installation of the tram lines themselves under section 1. This section authorises the construction in a road to take place. Subsection (1) sets out the general right to execute road works and gives illustrative examples of the types of road works which may be required such as the breaking up or opening up of the road, removing or using the soil and maintaining or changing the position of apparatus in the road. Subsection (2) refers to paragraph 3 of schedule 9, which requires works in certain roads in the control of other bodies only to be carried out with the consent of the controlling body.

28. This power is not restricted to the limits of deviation – for example, the installation of tram lines in a road may require road works to take place in another road outwith the limits of deviation, for example at a junction abutting those limits.

Section 6 – Permanent stopping up of roads

29. ‘Stopping up’ is a technical term to mean cancelling the public right to use a road. In some cases the construction of the tram line will mean that a road must either be diverted, or in a few cases stopped up altogether. The usual legal practice is not to refer to a road being diverted, but to say that it is being stopped up and a substitute (the diversion) is being provided. If a road is being stopped up altogether, then it is described as a stopping up with no substitute being provided.
30. Section 6 authorises the permanent stopping up of roads listed in schedule 3. The schedule is divided into three parts. Part 1 sets out the roads that are proposed to be stopped up with a substitute being provided, Part 2 sets out the roads that are proposed to be stopped up to vehicular traffic only, and Part 3 sets out the roads that are proposed to be stopped up without a substitute being provided.

31. Subsection (1) sets out the main right to stop up roads listed in schedule 3. Subsection (2) requires that where a substitute is to be provided, that the substitute is complete and open before the original road is closed, or at least there is continuous temporary running to the satisfaction of the roads authority.

32. Subsections (3) and (4) provide that one of a set of conditions must be satisfied before a road can be stopped up with no substitute provided. This is to ensure that no-one whose land abuts that road is prevented from accessing that land.

33. Subsection (5) formally extinguishes the right of passage over the road when it is stopped up and allows the Council to use it.

34. Subsection (6) provides that anyone who suffers loss from the extinguishment or suspension of a private right of way is entitled to compensation using the standard methods of assessing compensation and resolving disputes.

35. Subsection (7) deals with public utilities that may have equipment in the road that is to be stopped up and allows the utilities to be diverted, with the expense to be shared by the utility and the Council according to standard provisions.

Section 7 – Temporary stopping up of roads

36. This section is similar to section 6 except that it only covers roads that are to be stopped up temporarily during the construction of the tram line, and restored once the construction is complete. In this case there is a general power to stop up roads temporarily in subsection (1), and a specific power to stop up roads in schedule 4 temporarily in subsection (4).

37. Subsection (2) allows the stopped-up road to be used as a temporary working site.

38. Subsection (3) requires the Council to provide reasonable pedestrian access to properties abutting a road that has been temporarily stopped up.

39. Subsection (5) provides that in order to exercise the general power in subsection (1), the Council must obtain consent from the road works authority, whereas for the roads specifically set out in schedule 4, it only need consult the road works authority.

40. Subsections (6) and (7) import standard provision relating to road works from the New Roads and Street Works Act 1991. This Act governs the conduct of road works between the local authority and the contractor, and it is convenient to all concerned if the same relevant
provisions should apply to the construction of the tram. Their inclusion in this way also means that the provisions do not need to take up space by being restated in this Bill.

41. Subsection (8) provides that anyone who suffers loss by the suspension, albeit temporarily, of any private right of way is entitled to compensation, again using the standard methods of assessing compensation and resolving disputes.

Section 8 – Access to works

42. Some parts of the tram line will not be on the public road – for example the stretch along the Roseburn Railway Corridor. The Council will need to be able to reach the tram line from public roads for construction purposes, and after the line has been built, maintenance purposes. This section allows this to happen by permitting the authorised undertaker to construct accesses or improve existing accesses within the limits of deviation.

Section 9 – Construction and maintenance of new or altered roads

43. Should the Bill involve the construction of a new road or the alteration of an existing one, this section ensures that it will be done to a standard acceptable to the roads authority. Bridges and tunnels are not covered by this section, but by the next section. It also provides that the Council as undertaker will be responsible for maintaining the new or altered road for a year or two years respectively, after which time it will be treated as any other road.

44. Finally, subsections (4) and (5) ensure the continued operation of the New Roads and Street Works Act 1991, which deals with road works.

Section 10 – Construction of bridges and tunnels

45. As they are such complex constructions compared with other road works, this section specifically provides that the roads authority must approve the plans and specifications for bridges and tunnels that are required for the tram line.

Section 11 – Restoration of roads if tramway discontinued

46. Just as the works to roads for the purposes of building the tram system must be carried out to the satisfaction of the roads authority, should any of the authorised road tramways i.e. the tram line which runs along the road no longer be required at some point in the future, then its removal must also be carried out to the satisfaction of the roads works authority. Section 11 requires the works and other apparatus to be removed from the road when no longer required, and that this be done to the satisfaction of the road works authority.

Section 12 – Agreements with roads and road works authorities

47. As undertaker, the Council will not have any powers that are not specifically given to it. This section allows it to enter into agreements with the roads authority and road works authority that are associated with the works to roads that are set out in this Bill. As an example, the undertaker may agree with the road works authority that the latter carries out the works rather than the former (which will then necessarily mean that they are done to the latter’s satisfaction), and such an agreement may involve payment or not.
48. Subsection (1) sets out the types of agreements that may be made, and subsection (2) provides that the agreement may involve delegation of work to the road works authority and payment.

Section 13 – Agreements with Network Rail and BRB (Residuary) Limited

49. In the same way that the Council is permitted to enter into agreements with the roads authority and road works authority under the previous section, it is able to enter into agreements with Network Rail, the organisation responsible for the national railway infrastructure, and BRB (Residuary) Limited by whom title to the land to which this section refers is generally held, although under this section the scope of such agreements is restricted to the transfer of disused railway land and associated works and property. This and the previous section are necessary because as its powers are limited by statute, the Council needs to be given specific permission to enter into such agreements for the purpose of the tram.

50. If such land is transferred to the Council, by subsection (2) it may then adapt it for use as part of the tram system.

Section 13A – Transfer of obligations arising from previous enactments

51. There are likely to be historic statutory obligations on BRB (Residuary) Limited as the successor body of the original railway companies, which subsist notwithstanding the closure of the former railways. This section transfers the responsibility for those obligations applicable to any former railway which falls within the limits of deviation to the authorised undertaker from the date of Royal Assent.

Section 14 – Level crossings

52. Although the construction of the tram line across a road at the same level is an interference with the right to use the road and could therefore be covered by the more general rights to carry out road works above, level crossings are of a special nature and it is convenient to identify them separately and set out the particular powers that will apply to them alone.

53. The crossings are set out in schedule 5, and section 14 provides that barriers can be constructed in association with the crossing, and that the level of the road that is being crossed can be altered to accommodate the tram line.

54. Subsection (1) authorises the construction of level crossings across the roads listed in schedule 5. Not every crossing must be constructed – like the authorised works, the Bill gives optional powers to the Council.

55. Subsection (2) authorises the use of barriers or other protective equipment, as long as they are approved by Scottish Ministers.

56. Subsection (3) provides for traffic signs placed in connection with the level crossing to be treated as if they were traffic signs placed under the Roads (Scotland) Act 1984.
57. Subsection (4) gives special permission to alter the level of roads (over and above the general power in section 3) with respect to level crossings. It is included because the construction of a level crossing can involve raising or lowering the level of the road, which is not one of the specific powers mentioned in section 3.

58. Similarly to section 12, subsection (5) allows the Council as undertaker to enter into agreements with the roads authority with respect to the construction and maintenance of the level crossing. Subsection (6) defines certain terms.

Section 15 – Attachment of equipment to buildings for the purposes of works

59. A tram system involves overhead wires that transmit electricity to the vehicles. This section allows wires etc. to be attached to neighbouring buildings rather than fixed to poles in the road, which reduces clutter in the road. There are special provisions for attaching apparatus to listed buildings, set out in section 68. The question of planning permission for attachments (to any building) is dealt with by section 70.

60. Subsection (1) sets out the general power to attach equipment to buildings.

61. Subsection (1A) provides that the Council requires the prior written consent of the owner of the building before affixing any apparatus to a building. Such consent may be given subject to reasonable conditions but is not to be unreasonably withheld.

62. Subsection (1B) provides that where the owner on whom a notice has been served does not either give or refuse consent within 28 days of service of the notice, consent is deemed to have been given without any conditions.

63. Subsection (1C) provides a mechanism whereby if consent is unreasonably withheld or given subject to unreasonable conditions, the Council can refer the matter to the sheriff by summary application, who shall decide the matter. Such decision is final.

64. Subsection (4) deals with works that might be required to the building (for reasons unconnected to the tram) that might affect the attachment. It allows the owner to give at least 28 days’ notice to the Council to remove the attachment during the reconstruction or repair of the building. The subsection also asserts the right of the Council to maintain the apparatus.

65. Subsection (5) entitles the owners and occupiers of the building to compensation for the attachment and maintenance of the apparatus, in accordance with the usual provisions for determining the amount of compensation and disputes about compensation. Only the powers in subsections (1) and (4)(b) are mentioned here because those are the powers that involve the authorised undertaker in carrying out works to the building, which might cause damage to it.

66. Subsection (6) defines some terms used in this section.
Section 16 – Discharge of water

67. The Council must be able to drain the tram works effectively, both during construction and operation. Subsection (1) allows the use of watercourses and drains for this purpose and the connection with them (within the limits of deviation and limits of land to be acquired or used – see sections 1 and 2) to be made.

68. Subsection (2) requires consent to be sought from the person responsible for the watercourse, sewer or drain before a discharge can be made, but such consent not to be withheld unreasonably.

69. Subsection (3) requires the Council as undertaker to seek approval for plans for any opening into a sewer or drain from the person responsible for it, again such approval not to be withheld unreasonably.

70. Subsection (4) requires the Council as undertaker to take reasonable steps to ensure that any discharge of water is not contaminated. In practice this will mean consultation with the authority responsible for the watercourse, sewer or drain about means of filtration etc.

71. Subsection (6) defines some of the terms used in this section.

Section 17 – Safeguarding works to buildings

72. This section covers the situation where the installation, operation or maintenance of the tram works may threaten or damage buildings lying within the limits of deviation (see section 2).

73. Subsection (1) allows the Council as undertaker to carry out such works as it thinks necessary or expedient, at its own expense. Work may be carried out to safeguard buildings when the tram works (also limited to being within the limits of deviation by virtue of section 2) are being or are about to be carried out near such buildings.

74. Subsection (2) gives a time limit for the operation of this section: from before the construction to five years after the relevant part of the line is open for use.

75. Subsection (3) allows the Council to enter buildings for them to be surveyed to decide whether any works are necessary under this section.

76. Subsection (4) additionally allows the Council to enter the relevant buildings to carry out the works, and also enter any land adjacent to the building (although not any building on such land).

77. Subsection (5) provides that except in cases of emergency, the Council must give 14 days’ notice to the owners and occupiers of any building or land it proposes to enter or carry out works to under this section.

78. Subsection (6) allows the owner or occupier to serve a counter notice within 10 days’ of receiving notice from the Council that means that the question of whether the entry or the works
are necessary or expedient is referred to arbitration under section 76. There is no similar right to serve a counternotice in respect of the Council’s powers to enter and survey under subsection (3).

79. Subsection (7) requires the Council to compensate owners and occupiers for loss or damage sustained under the provisions of this section.

80. Subsection (8) additionally entitles the owners and occupiers to compensation for any damage sustained should any works carried out under this section prove inadequate. This entitlement operates for a five year period commencing on the date on which the relevant part of the line is first opened for use.

81. Subsections (9) and (10) assert the continued operation of the standard compensation provisions for settling disputes and deciding the amounts of compensation.

Section 18 – Power to construct temporary tramways

82. This section gives power to the Council as undertaker to divert the tram onto a temporary tramway should the road on which the tramway is normally laid be subject to road works (not necessarily connected with the tram).

83. Subsection (1) gives the principal power to remove or discontinue the normal route of the tram and lay, maintain and operate the temporary route.

84. Subsection (2) requires the consent of the roads authority (not to be withheld unreasonably). This additional safeguard is introduced because the location of a temporary tramway cannot be predicted at the time of authorising the Bill, whereas the location of the main tramway is within particular limits and so does not require additional permission from the road works authority.

85. Subsection (3) applies the power to control traffic by means of signs to temporary tramways under this section in the same way as it applies to the permanent tramway.

Section 19 – Power to survey and investigate land

86. This section gives a general power to enter land for the purposes of surveying or investigating it. The detail of the exercise of the power is set out in the following paragraphs.

87. Subsection (1) sets out the extent of the power, which is to enter onto land within the limits of deviation to survey or investigate it, which can include making trial holes in the land and taking away soil samples, protecting flora and fauna and carrying out archaeological investigations. Apparatus for this purpose may also be placed, left and removed.

88. Subsection (2) requires the Council to give at least seven days’ notice the first time it contacts an owner under this section, and three days’ notice subsequently, whenever it intends to exercise the powers in subsection (1).
89. Subsection (3) requires those exercising the power of this section to provide written identification, and allows them to bring vehicles and equipment onto the land as are necessary to carry out the survey, investigation or to make trial holes.

90. Subsection (4) provides that the consent of the road works authority (not to be unreasonably withheld) is required before trial holes can be made in a carriageway or footway.

91. Subsection (5) imports the usual compensation regime for any damage sustained by owners and occupiers under this section.

Section 20 – Mode of construction and operation of tramway

92. This section provides that the tramway will be run on electricity, or in emergency by other means, and that it will be at a gauge i.e. the distance between the rails, of 1435 millimetres. This is the standard gauge for railways and tramways in the UK.

Section 21 – Obstruction of construction of tramway

93. This section makes it an offence to interfere with the construction of the tramway without reasonable excuse. The only penalty can be a fine of up to £1000.

Part 2 – Land

94. This Part of the Act deals with the acquisition of land and associated provisions. One of the principal powers sought by the Council is the ability to acquire land compulsorily for the purposes of constructing, operating and maintaining the tram. Given the nature of a compulsory power to acquire land the limits of the power must be set out very specifically and the exercise of the power is subject to strict controls. The only land that can be acquired is any land that is either within the limits of deviation (see section 2) or the limits of land to be acquired or used (see section 1). The parcels of land and their owners must also be described in a separate document known as the Book of Reference, which accompanies the Bill, and may be inspected or purchased as set out in the Promoter’s Statement. The owners are also required to be notified in advance of the introduction of the Bill.

95. The land acquisition provisions in this Part are standard ones wherever possible to ensure that the procedure is familiar and fair and satisfies human rights. The Bill imports standard requirements as to the acquisition procedure and the assessment of compensation (i.e. how much the owner receives for having the land taken away).

96. The standard procedure (under the Lands Clauses Consolidation (Scotland) Act 1845) involves the service of a special notice known as a ‘notice to treat’ (although an alternative procedure, the General Vesting Declaration procedure, can also be used, for which see the note for section 40). This indicates that the undertaker intends to acquire the land and is offering to deal with the owner to agree compensation. The undertaker can enter the land before the compensation is agreed and the land has been formally transferred to it by serving a ‘notice of entry’. If the landowner is unwilling to sell the land or cannot be traced then the undertaker can acquire the land by executing a deed, which in the compulsory purchase legislation is known as a
‘notarial instrument’. Alternatively the landowner can agree to sell the land – the compensation that will be paid is the same.

97. The procedure for assessing compensation (under the 1845 Act referred to in the previous paragraph and the Land Compensation (Scotland) Act 1963) is the standard one used for compulsory purchase orders. In simple terms, if there is a dispute about the amount, it is referred to the Lands Tribunal for Scotland, a specialist tribunal for dealing with such disputes.

Section 22 – Power to acquire land

98. This is the principal land acquisition power. Subsection (1) allows the Council as undertaker to acquire any land within the limits of deviation or limits of land to be acquired or used and specified in the book of reference, for the purposes of the works, and also to use the land for those purposes or connected purposes.

99. Subsection (2) states that the power is subject to a time limit set out in section 38 and is supplemented by a power to enter land temporarily set out in section 25.

Section 23 – Powers to acquire new rights

100. Rather than acquire the whole of some land, the Council may only need to acquire rights over land (in other words it will not own the land afterwards, but just have a certain right over it, such as to enter the land to maintain the tramway). This not only saves on the compensation payable but means that landowners are not deprived of their land unnecessarily.

101. Subsection (1) allows the acquisition of rights over land subject to the same geographical limits and time limit as the general power in the previous section.

102. Subsection (2) allows the creation of new rights (e.g. a right to cross land that was not there already) as well as the acquisition of rights already in existence (e.g. a right to cross land that was there already), which is what subsection (1) permits.

103. Subsection (3) provides that the Council need not acquire more than it wants to under this section. The main acquisition power is subject to a provision where the owner can require the Council to acquire more than it wants to in some circumstances – see section 32.

104. Subsection (4) is a consequence of subsection (3) – section 90 of the 1845 Act is about acquiring more land at the request of the owner.

105. Subsection (5) applies the Lands Clauses Acts (the standard clauses about compulsory acquisition) to the land subject to compulsory purchase under this Act.

Section 24 – Rights under or over roads

106. This section allows land above or below the surface of a road shown in the Book of Reference as required for the works to be entered upon and used without being acquired. This is provided for by subsections (1) and (2).
107. Subsection (3) provides that the Council does not need to pay compensation in respect of loss suffered by exercise of the powers conferred by this section where the road in question is a public road.

108. Subsection (4) excludes from the provisions of subsections (2) and (3) land that is a subway, underground building, cellar, vault or part of a building fronting the road. This is to reassure owners of cellars etc. that extend beneath the road that their land will not be entered upon unless it is specifically being acquired (of which they would have notice).

109. Subsection (5) is a technical provision that means that the right to use the road provided by this section overrides other rights, notwithstanding that it has not been recorded as a right in land in the General Register of Sasines or registered as a right in land in the Land Register of Scotland.

Section 25 – Temporary use of land for construction of works

110. While section 22 allows land to be acquired permanently, this section allows land to be occupied temporarily while the works are being constructed and given back again. Any land affected by this power must be listed in schedule 7.

111. Subsection (1) sets out the main right to enter and possess the land in schedule 7 temporarily, remove buildings and vegetation from the land, and construct temporary works and buildings on it.

112. Subsection (2) requires the Council to notify the owners and occupiers of its intention to enter the land not less than 28 days before it does so.

113. Subsection (3) restricts the Council from remaining in possession of the land by setting a time limit of one year after the work or works listed in column 4 of the schedule next to each parcel of land are completed.

114. Subsection (4) provides that the Council must restore the land to the reasonable satisfaction of its owner before returning it, but need not replace a removed building. The standard practice is adopted here to avoid the risk of considerable expense being incurred. However, where a building has been removed, the owners would be entitled to apply for compensation in the usual way.

115. Subsections (5) and (6) apply the usual compensation regime to any loss or damage arising from temporary possession under this section.

116. Subsection (7) ensures that compensation can be claimed for the temporary giving up of possession as well as for damage from the construction of the works, as long as this does not mean that compensation is being awarded twice for the same thing.

117. Subsection (8) makes it clear that the Council cannot be required to acquire the land in schedule 7 permanently.
Section 26 – Temporary use of land for maintenance of works

118. This section provides an additional power to enter and take temporary possession of land for maintenance to be carried out to the works. The land that is covered is land within 20 metres of the work, provided that it is reasonably required to maintain the work or ancillary work, or secure its safe operation.

119. Subsection (1) sets out the principal right to enter such land, take temporary possession of it and construct temporary works.

120. Subsection (2) prevents the powers of this section from being exercised with respect to a house, garden of a house or building in occupation.

121. Subsections (3) to (9) are similar (but not identical) to subsections (2) to (8) of the previous section. Subsection (3) requires the Council to notify the owners and occupiers of its intention to enter the land not less than 28 days before it does so.

122. Subsection (4) restricts the Council from remaining in possession of the land by specifying that possession can only be while the land is needed for the maintenance works.

123. Subsection (5) provides that the Council must restore the land to the reasonable satisfaction of its owner before returning it.

124. Subsections (6) and (7) apply the usual compensation regime to any loss or damage arising from temporary possession under this section.

125. Subsection (8) ensures that compensation can be claimed for the temporary giving up of possession as well as for damage from the construction of the works, as long as this does not mean that compensation is being awarded twice for the same thing.

126. Subsection (9) makes it clear that the Council cannot be required to acquire land under this section permanently.

Section 27 – Power as to acquisition and use of additional lands

127. In addition to the power to acquire land compulsorily under section 22, the Council may acquire land with the agreement of the owner for specified purposes (and if the normal compulsory purchase procedure is followed, compulsorily).

128. Subsection (1) lists the purposes: relocating people or industry away from the limits of deviation (see section 2); providing substitute recreational land or allotments; forming junctions between the works and any road or way; and executing, improving or maintaining the works.

129. Subsection (2) allows such land to be acquired compulsorily with the authorisation of Scottish Ministers. In other words the Council as undertaker may apply for a compulsory purchase order for the purposes listed in subsection (1) in the same way that other public bodies have compulsory purchase powers. This differs from section 22 because section 22 is effectively
a compulsory purchase order, whereas this section merely gives the Council the power to apply for a compulsory purchase order. The Council already has compulsory purchase powers, but not for these particular purposes and any other authorised undertaker may not have such powers, which is why a power must be included in the Bill.

130. Subsection (3) allows the Council to use land acquired under this section for the purposes listed in the section and also for the purposes listed in section 1(3).

Section 28 – Power to retain, sell, etc., lands
131. This section gives the Council full powers to sell, lease etc. land it has acquired under this Bill

Section 28A – Application of the Crichel Down Rules
132. The Crichel Down rules set out the circumstances in which surplus Government land acquired compulsorily should, as a matter of good practice, be offered back to former owners. This section ensures that the rules will be applied by the authorised undertaker.

Section 29 – Disregard of certain interests and improvements
133. This section deals with the situation where a landowner, knowing that the land is to be compulsorily purchased under this Bill, deliberately improves it or otherwise increases its value to obtain more compensation. In such cases the landowner is not entitled to the increase in compensation that would have been payable.

134. Subsection (1) provides that the tribunal assessing compensation shall not take into account interests in land or enhancements of the value of interests in land that it is satisfied were done to obtain more compensation (or compensation at all, where none would have otherwise been payable).

135. Subsection (2) defines the land covered by this section as being any land acquired under the Bill or any other of their land.

Section 30 – Compensation in respect of depreciation in value of interest in land subject to a standard security
136. This is a standard technical provision to deal with the situation where land that has depreciated in value because of the powers conferred by the Bill is subject to a mortgage. In particular the value of the land may have fallen below the value of the mortgage – this section ensures that neither the landowner nor the lender lose out as a result of this.

137. Subsection (1)(a) provides that the value of the interest in land that is being acquired is first calculated as if it were not subject to a mortgage.

138. Subsection (1)(b) provides that the lender (called a ‘heritable creditor’ in this section) may make a claim for compensation provided that the mortgage was created before the
depreciation in value. The landowner may still also make a claim under the standard compensation provisions.

139. Subsection (1)(c) provides that where there is more than one lender the compensation is paid in the same order as in the case of a sale of land – to the first mortgagee, then the next and so on.

140. Subsection (2) applies the section to older types of loan as well as modern standard securities.

Section 31 – Set-off against betterment

141. This section provides that if in addition to land acquired under the Bill, a landowner has other land that increases in value because of the Bill, through being more accessible, for example, then compensation for the lost land or for land injuriously affected by the construction works i.e. where there has been a diminution in value of the property as a result of the construction works, will be reduced by any increase in the value of the other land.

142. Subsection (2) makes it clear that if, for example, in constructing the tram adjacent land is made compatible with the Disability Discrimination Act, then the expenditure saved by the landowner should be included in the betterment calculation.

Section 32 – Acquisition of part of certain properties

143. This provision in essence allows a landowner to insist that the Council acquires all of certain types of land when it only intended to acquire part of it. This is so that the landowner is not left with inaccessible or otherwise unusable parcels of land – half a house, for example.

144. Subsection (1) states that this section replaces the standard provision of this type in the Lands Clauses Consolidation (Scotland) Act 1845. Note that it is standard for modern tram legislation to do this. The provision only applies where the Council has served a ‘notice to treat’ (see introduction to Part 2 above) with respect to land that is part of a house, factory or building or part of a house and park or garden, and it has also served a copy of this section. If it does not serve a copy of this section, then section 90 of the 1845 Act would apply.

145. Subsections (2) and (3) give the owner 21 days to serve a counter-notice on the Council stating that the owner objects to the notice to treat and is willing to sell the whole of the land in question, otherwise the owner will have to sell the part only.

146. Subsection (4) provides that unless the Council agrees to acquire all of the land in question, the dispute shall be resolved by the Lands Tribunal for Scotland.

147. Subsection (5) sets out the criteria for the tribunal – if the part of the land can be taken without material detriment to the remainder, or in the case of a house and park or garden, without seriously affecting the amenity and convenience of the house, then the tribunal should rule that the Council need only acquire the part of the land.
148. Subsection (6) allows the tribunal to rule that an even smaller parcel of land should be taken, if that smaller part could be taken without material detriment to the remainder.

149. Subsection (7) allows the tribunal to rule that more than the part of the land that the Council wishes to acquire, but less than the whole that the owner wishes it to acquire, should be acquired.

150. Subsection (8) allows the tribunal to rule that all of the land the owner wishes the Council to acquire should be acquired. In each case (subsections (6), (7) and (8)), the notice to treat should be taken to include whatever land the tribunal has ruled should be taken.

151. Subsection (9) gives the Council the option of withdrawing the notice to treat if the tribunal rules against it, but it must still pay compensation for the giving and withdrawal of the notice.

152. Subsection (10) provides that if the Council acquires only part of one of the types of land set out in subsection (1), then it must also pay compensation for the severance of that part of the land from the rest.

Section 33 – Persons under a disability may grant servitudes, etc.

153. This provision applies in cases where certain people would not normally be able to sell land (usually because they are trustees) which is what ‘under a disability’ means. The Lands Clauses Consolidation (Scotland) Act 1845 remedies this to a certain extent, by allowing such persons to have land and existing rights in land acquired from them. In the absence of this section, and in reliance only on the 1845 Act, the Council would have to acquire the whole of the land in question should it require only a new right in land. This section therefore allows persons under a disability to grant servitudes, rights and privileges over their land.

Section 34 – Extinction or suspension of private rights of way

154. By subsection (1), this section automatically extinguishes private rights of way over any land that is acquired by the Council, either at the point that is acquired, or when it is entered upon if that is earlier. The land will be registered under the new owner without the private rights of way.

155. Subsection (2) extinguishes private rights of way over land that is ‘appropriated’ by the Council, meaning land that it already owned for some other purpose, but intends to use for the purpose of this Bill, namely the construction and operation of a tram line.

156. Subsection (3) suspends private rights of way temporarily over land that is occupied temporarily under the Bill.

157. Subsection (4) provides the usual entitlement to compensation for loss sustained by owners of private rights of way extinguished or suspended under this section.
158. Subsection (5) exempts from the scope of this section private rights of way owned by statutory undertakers (i.e. utility companies etc.).

159. Subsection (6) allows the Council to exempt a private right of way from this section if it wishes (i.e. that the right of way will continue to exist) if it gives notice to the landowner before the land is acquired or occupied, or makes some other agreement with the landowner. The provision ensures that if the Council makes such an agreement to do something short of full acquisition, perhaps to resolve an objection to the Bill, then it will not go ahead and extinguish the right anyway.

Section 35 – Power of entry on lands compulsorily acquired

160. This section allows the Council to enter upon land provided it has (a) served a notice to treat on the owner and (b) served a notice of entry at least three months before the date of entry. For explanations of these terms see the introduction to Part 2 above. It excludes the provisions of sections 83 to 89 of the Lands Clauses Consolidation (Scotland) Act 1845 from this power. These sections contain various provisions about payment of compensation having to be done before entry, or otherwise deposited in a bank, otherwise penalties would apply.

Section 36 – Correction of errors in the Parliamentary plans and book of reference

161. This section allows mistakes in the plans or book of reference to be rectified by applying to the sheriff. The purpose of the section is not to permit the Council to make substantive changes to the scope of the powers contained in the Bill but to correct inaccuracies in the Book of Reference or Parliamentary plans. The sheriff must be satisfied that the inaccuracies arose by mistake to permit the correction to be made.

162. Subsection (1) sets out the principal power to apply to the sheriff to correct a mistake in the plans or book of reference, which the Council may do if it gives at least 10 days’ notice to the owner or occupier of the land that is the subject of the error that it intends to do so.

163. Subsection (2) provides that if the sheriff is satisfied that a mistake has been made, then that fact can be certified and the error set out in a certificate.

164. Subsection (3) sets out the formal requirements for depositing the correction properly. This must be done by supplying copies of the certificate to the Clerk of the Scottish Parliament, the sheriff clerk, to partner libraries with whom the Book of Reference has been deposited and the solicitor to the Council. At that point the plans or book of reference shall be deemed to have been amended accordingly.

165. Subsection (5) makes it clear that this power only applies to land identified in the book of reference and on the Parliamentary plans.

Section 37 – No double recovery

166. This section ensures that compensation cannot be paid twice for the same loss under this Act and any other obligation.
Section 38 – Time limit for exercise of powers of acquisition

167. This section sets a limit of five years for the exercise of compulsory purchase powers under sections 22 and 23 (the acquisition of land and rights in land respectively). The five years runs from the date that this Bill becomes an Act, and ‘the exercise of compulsory purchase powers’ in this context means the service of a notice to treat (see the introduction to Part 2 above).

168. Subsection (2) provides that temporary possession of land shall not be caught by this provision provided it started before the five-year limit.

Section 39 – Extension of time

169. This section allows the Council to apply to Scottish Ministers for an extension of the five-year period in the previous section before the five-year period expires. If Scottish Ministers agree to an extension, then it must go through the statutory instrument procedure, which means that it can be annulled by a resolution of the Scottish Parliament. The initial period and any extension to the initial period cannot exceed ten years in total.

Section 40 – General vesting declarations

170. This section imports the ‘general vesting declaration’ procedure into the Bill. This is a compulsory acquisition procedure that is an alternative to serving notices to treat and notices of entry on every owner (for an explanation of these terms see the introduction to Part 2). The procedure is set out at Schedule 15 to the Town and Country Planning (Scotland) Act 1997. It is a more convenient way to acquire a large number of parcels in different ownership and involves sending preliminary notices of intention to execute a ‘vesting declaration’ and then the execution of the declaration, followed by notices stating that the declaration has been executed. At that point the declaration is treated as if it had been a notice to treat and also the Council as acquiring authority would have the power to enter and take possession of the land without serving notices of entry. Since the Schedule to the Town and Country Planning (Scotland) Act 1997 is normally applied to compulsory purchase orders rather than Private Acts, subsection (2) clarifies how the Schedule should be applied to this Private Act.

Part 3 – Penalty fares

171. Part 3 is a self-contained part of the Bill that authorises the issuing of penalties for failing to pay fares and the collection of the debts that arise from failure to pay the penalties set out in the notices.

Section 41 – Interpretation for Part 3

172. This section defines terms used in Part 3 of the Bill and the definitions do not extend outside Part 3. An ‘authorised person’ will be ‘authorised’ by whatever mechanism the authorised undertaker chooses to authorise its staff to carry out fare inspections etc. Subsection (2) ensures that any ticket that is mentioned in Part 3 is in fact a ticket for the journey that the passenger is making, as defined in subsection (3).
Section 42 – Operation of Part 3
173. This Part of the Bill does not have effect until the Scottish Ministers have declared that it is in force by means of an order.

Section 43 – Penalty fares
174. This is the main provision about penalty fares. Subsection (1) provides that if a passenger fails to produce a fare ticket or other permission then that passenger is liable to pay a penalty fare if requested.

175. Subsection (2) provides that the passenger is excused if there were no facilities for paying for a ticket, or if the ticket is not stamped correctly because there were no facilities for stamping it.

176. Subsection (3) requires penalty fares to be paid within 21 days, and subsection (4) allows subsequent recovery of the amount to be treated as a civil debt (in other words the Council can go to court to recover the money).

177. Subsections (5) to (7) deal with the burden of proof in court proceedings for recovery of a penalty fare (i.e. whether the onus is on the Council or the passenger to prove their version of the facts). If the passenger is relying on subsection (2) and provides a statement of that fact (together with details of the circumstances) within 21 days of the penalty being incurred, then the burden of proof is on the Council to show that the facts do not fall within subsection (2). Otherwise the burden is on the passenger to show that the facts do fall within subsection (2).

Section 44A – Amount of penalty fare
178. The penalty fare is twenty five times the maximum single adult cash fare, being the highest value cash fare for any single adult journey on the tram network.

Section 45 – Document to be issued in connection with penalty fare requirement
179. This section sets out what documentation is exchanged when a penalty fare is charged. By subsection (1), if the passenger pays on the spot, then the person issuing the penalty fare (for convenience here called the inspector) shall issue a receipt. If the passenger does not pay, then the inspector shall issue a notice setting out the requirement to pay within 21 days, the amount of the penalty and the address to which payment should be sent.

180. By subsection (2) the receipt or notice issued under subsection (1) acts as a valid ticket for the journey in question. By subsection (3) the destination for the journey shall be wherever the passenger gives as a destination, or if the passenger does not give a destination shall be decided by the inspector.

Section 46 – Notice of penalty fare provisions
181. This section deals with the display of notices warning people about the penalty fare provisions. Subsection (1) requires the notice to be displayed at every stop and on every tram, and that it be readily visible.
182. Subsection (2) requires the notice to state when penalty fares are payable and how much they are. It leaves it to the authorised undertaker to decide the wording of the notice as long as these basic details are included.

Section 47 – Supplementary provisions

183. This section puts duties on the passenger and the inspector. Subsection (1) requires passengers that do not pay on the spot to give their names and addresses, and failure to do so is a criminal offence with the only penalty being a fine of up to £500.

184. Subsection (2) requires inspectors to show their authorisation if requested by a passenger, and if they do not then any request they make shall have no effect.

Section 48 – Exclusion of double liability

185. This section ensures that a passenger liable to pay a penalty fare is not pursued for that fare by more than one method. The alternative methods are set out in subsection (2), and are an offence under byelaws of failing to pay a fare, and an offence under section 25(3) of the Public Passenger Vehicles Act 1981 of failing to pay a fare.

186. Subsection (1) states that proceedings under the alternative methods may not be commenced before 21 days have elapsed since the penalty fare was issued (which is the time the passenger has to pay under this Part), and may not be commenced after 21 days if the passenger has paid the penalty fare or proceedings have been issued under this Part.

187. Subsection (3) provides that if proceedings are commenced by more than one method then any money recovered twice must be repaid and the liability to pay shall cease.

Part 4 – Operation of authorised tramway

188. This Part contains general provisions that allow the Council to operate the tramway in a proper manner.

Section 49 – Power to operate and use authorised tramway

189. Subsection (1) allows the Council to operate the tramway once constructed, to carry goods and passengers. It may seem obvious that it should be able to do so, but unless the power is specifically given, it cannot.

190. Subsection (2) gives the Council the exclusive right to use the tramway equipment and to occupy the road containing the tramway equipment (except that any public right of way over that road shall continue where it is not interrupted by the equipment, by virtue of subsection (4)).

191. Subsection (3) introduces a criminal offence of interfering with tramway equipment, with a maximum penalty of a fine of £500.
Section 50 – Power to charge fares

192. This section authorises the Council to charge for the use of the tram (and also not to charge, if it wishes not to).

Section 51 – Disapplication of duties respecting provision of transport services

193. This section disapplies section 63(7) of the Transport Act 1985, which is a duty not to inhibit competition between providers of public passenger services. This allows the Council to give the tram priority and allow it to be the sole user of the tram system.

Section 52 – Concessionary and integrated travel

194. This section includes the tram within legislation allowing concessionary fares and integrated ticketing to be charged or used, respectively. Subsection (1) applies sections 93 to 101 and 112 of the Transport Act 1985 to the tram, which provide for the operation of a ‘travel concession scheme’, which means a system for charging reduced or no fares to people over 60, under 18, or with certain disabilities.

195. Subsection (2) applies sections 28 and 29 of the Transport (Scotland) Act 2001, which provide for ‘ticketing arrangements’ to be made, whereby the same ticket is valid on services operated by more than one company.

Section 53 – Obstruction to operation

196. This section creates an offence of deliberately obstructing the operation of the tram (compare this with the following section which is for broken down vehicles, spilled loads etc. blocking the tram). Subsection (1) creates the offence, with a maximum penalty of a £1000 fine.

197. Subsection (2) allows the Council to remove any obstruction. The Council may not otherwise be able to remove something that is blocking the tram (e.g. a parked car) under any of its other powers.

198. The remaining subsections deal with what the Council does with anything it removes under this section. Subsection (3) gives the Council a month to contact the owner to reclaim whatever it is, if the owner can be identified (details of the notice to the owner being given in subsection (7)), and subsection (4) gives the owner three months to reclaim the item if the owner cannot be identified.

199. Subsection (5) allows the Council to sell or get rid of the item if it is perishable or particularly expensive to keep, even if the periods in subsections (3) and (4) are still running. It would be up to the courts to decide if unreasonable expense had been incurred if this was challenged. Subsection (6) allows the Council to claim the cost of keeping the item, less the proceeds of selling it, from the owner, by going to court if necessary.

Section 54 – Removal of obstructions

200. This section allows the Council to remove obstructions to the operation of the tram caused by vehicles or loads falling from vehicles.
This document relates to the Edinburgh Tram (Line One) Bill as amended at Consideration Stage (SP Bill 17A)

201. Subsection (1) requires the person in charge of a vehicle to remove it from its obstructing position immediately, and if such a person does not do so, authorises the Council to do so and to recover the expense of doing so from either the person who left the vehicle in such a place or the owner of the vehicle (unless the owner can show that they were not involved or aware of the incident).

202. Subsection (2) repeats subsection (1) with respect to loads falling from vehicles.

203. Subsection (3) defines who the owner of a vehicle is, namely with reference to the registered keeper under the Vehicles (Excise and Registration) Act 1994.

Section 55 – Prevention or restriction of running of tram

204. This section allows three specified events per year listed in schedule 8 to take place on the tram route without restriction. When the Council considers permission for all other events, it must consult the tram operator and consider the effect on safety and the running of the tram. Although the Council will be the ‘authorised undertaker’ when the Bill is enacted, it may transfer its powers to construct and operate the tram under the provisions of section 64.

Section 56 – Traffic signs and priority

205. This section deals with the placing of traffic signs in connection with the tram, and allows the tram to be given priority over other traffic. Subsection (1) allows the Council as undertaker to place and maintain traffic signs that are either of a standard type specified by regulations made under the Road Traffic Regulation Act 1984 or authorised by the Secretary of State (traffic signs are a reserved matter under the Scotland Act 1998).

206. Subsection (2) requires the Council as undertaker to consult the traffic authority about the placing of signs, which shall normally be placed and maintained by the traffic authority. The traffic authority can refuse to do so, however, or give directions under section 65 of the Road Traffic Regulation Act 1984. If it refuses, then the authorised undertaker will have to place and maintain the signs itself.

207. Subsection (3) includes the Council as undertaker within the power to be given directions by Ministers contained in section 65 of the 1984 Act, and so subsection (1) is subject to such directions.

208. Subsection (4) allows the tram to be given priority over other traffic at junctions.

209. Subsection (5) includes the tram within the duty set out at section 122(1) of the 1984 Act, which puts a duty on the local authority to facilitate public service vehicles and secure the safety and convenience of people using them.

Section 57 – Power to lop trees overhanging the tramway

210. This section allows the Council as undertaker to prune vegetation that interferes with the operation of the tram or people using it. Subsection (1) sets out the general power to fell or lop
any tree or shrub or cut back its roots if it believes it necessary to prevent it from interfering with the tramway or being a danger to people using it.

211. Subsection (2) requires the Council to do no more damage than is necessary and to compensate the owner of the tree or shrub, and subsection (4) provides that the usual procedure in case of dispute applies.

212. Subsection (3) exempts this power from tree preservation order legislation contained in the Town and Country Planning (Scotland) Act 1997, whether there is a tree preservation order in force or the tree is in a conservation area.

Section 58 – Trespass on tramroads

213. This section makes it an offence to trespass on a tramroad, with a maximum penalty of a fine of £1000. Subsection (1) sets out the elements of the offence, namely trespass directly on the tramroad (being any part of the tram system not running down a road) or trespass on the land of the Council as undertaker dangerously near the tramroad or its apparatus.

214. Subsection (2) provides that a conviction can only be secured if there was a warning against trespass displayed at the nearest tram stop. This section is permissive rather than exclusive – the authorised undertaker may place additional notices or take other action to warn against or prevent trespass. Conversely it would be open to the authorised undertaker not to place the relevant notices and to allow the public access to tramroads where that was considered safe and appropriate.

Section 59 – Power to make byelaws

215. This section allows the Council to make byelaws in relation to the tram. Byelaws are local laws of limited scope governing a particular area.

216. Subsection (1) sets out the main bylaw-making power. Byelaws must be connected to the use of the tramway and the conduct of people on it, including employees.

217. Subsection (2) provides a non-exhaustive list of subjects that the byelaws could cover. This includes things such as payment of fares, lost property, the carriage of bicycles and the maintenance of buildings adjacent to the tramway.

218. Subsection (3) allows byelaws to create criminal offences, restricted to a maximum penalty of £1000. By subsection (4), the Council as undertaker may take summary action to avoid danger or hindrance of the operation of the tram – in other words it can remove people and things from the tram premises in an emergency, such as where someone is about to get hurt.

219. Subsection (5) requires proposed byelaws to be confirmed by Scottish Ministers.

220. Subsections (6) to (12) set out the bylaw confirmation procedure. First, the Council must publish a notice of its intention to create byelaws, at least 28 days before it applies to Scottish Ministers. It must specify a period for making representations, during which it must
have copies available for inspection at its offices and provide copies for payment of a reasonable sum. Scottish Ministers can confirm or refuse to confirm any of the byelaws and can fix a date on which they are to come into operation. Once confirmed the Council shall publish a notice in at least one newspaper circulating in the areas to which the byelaws relate stating the general effect of the byelaws and the date on which they will come into operation. The Scottish Ministers may charge the Council a fee for administration. Once confirmed by Scottish Ministers, the byelaws must also be available for inspection and purchase. Finally, a copy of the byelaws endorsed by a certificate signed by an authorised Council officer which states the facts listed at subsection (12)(a) to (d) shall be evidence in a court of those facts.

**Section 60 – Power to contract for police services**

221. This section allows the Council to enter into an agreement with any police force, including the British Transport Police, to police the tramway. Subsection (1) sets out the primary power. The agreement must be made with the chief officer of police and the police authority, or, in the case of the British Transport Police, the British Transport Police Authority.

222. Subsection (2) allows the agreement to be made on any terms and conditions and subject to payment.

223. Subsection (2A) ensures that any such agreement will be consistent with sections 33 to 35 of the Railways and Transport Safety Act 2003.

224. Subsection (3) allows British Transport Police officers to police the tramway and tramway premises, if the agreement has been made with the British Transport Police Authority, because they are normally restricted to railway stations etc.

225. Subsection (4) defines some of the terms used in this Section.

**Part 5 – Miscellaneous and general**

226. This Part of the Bill contains a collection of miscellaneous powers and provisions affecting the tram.

**Section 61 – Insulation against noise**

227. This and the next two sections allow the Council as undertaking to create a scheme whereby it pays owners of buildings affected, or likely to be affected, for noise insulation works. Subsection (1) sets out the principal power to make such a scheme, and subsection (2) gives the Council the power to make the grants.

228. Subsection (3) sets out the requirements of a noise insulation scheme. It must say which areas are affected; who should be paid the grants and how much; any conditions for the payment of the grant; how long the scheme shall last, which must be at least two years; and it must say that the Council will give reasons for refusal of a grant if asked.
229. Subsection (4) allows the scheme to affect different areas differently, and allows a scheme to be varied as long as grants already made are not affected.

230. Subsection (5) sets out the advertising requirements for the scheme. It must be advertised in two successive weeks of local newspapers and state the effect of the scheme and where it may be inspected.

231. In a similar way to section 59(12), subsection (6) sets out how a copy of a newspaper advertisement may be accepted as evidence in court.

Section 62 – Orders for insulating new buildings

232. This section allows the Council to ask Scottish Ministers to require that all new buildings in the area of a noise insulation scheme are built to certain standards of noise insulation. Subsection (1) provides that the Council can apply to Scottish Ministers to make an order to this effect.

233. Subsections (2) and (3) require a map to accompany the application, which shows the area (which can be the whole scheme area or part of it) that the order will cover.

234. Subsection (4) sets out the notice requirements for the order. Again (as in the previous section for schemes) it must be advertised in two successive weeks of local newspapers, stating its effect and where it may be inspected. Additionally, and unlike schemes, it is possible to object to the order to Scottish Ministers. This is because schemes are simply a declaration of the Council’s intention to award money for noise insulation, whereas an order under this section will place a burden upon those intending to build new buildings. The period for making an objection must be at least 28 days.

235. Subsection (5) sets out the requirements for an objection, namely that it must be sent to Scottish Ministers with a copy to the Council, and it must say what the grounds of objection are.

236. Subsection (6) requires a local inquiry to be held if there are objections to the order that are not withdrawn after negotiation. This is similar to a planning inquiry in front of a reporter. Scottish Ministers must consider the report of the reporter, but do not need to follow its recommendation.

237. Subsection (7) provides that Scottish Ministers can either make the order as requested by the Council or they may make it with changes. They may also decline to make it. By subsection (8) if the order is made in some form, then the Council must advertise the fact in a local newspaper.

238. Subsection (9) ensures that the requirements of an order under this section are taken into account when approval for a new building is granted under the Building (Scotland) Act 1959. That Act is due to be repealed by the Building (Scotland) Act 2003 but no date has been set for the commencement of the new Act. This may require an amendment to this section during the passage of the Bill.
239. Subsection (10) provides a more general power to hold local inquiries should Scottish Ministers decide that one is necessary.

Section 63 – Repeal of sections 61 and 62

240. This section allows Scottish Ministers to repeal the previous two sections (schemes and orders for noise insulation) should later legislation render them redundant, but only if the Council applies to them for this to be done (subsection (3)). This might happen if a national scheme for noise insulation were introduced.

241. Subsection (2) applies the general power to hold local inquiries to this section as well as the previous section.

Section 63A – Compliance with Code of Construction Practice and Noise and Vibration Policy

242. This section ensures that the authorised undertaker will act in accordance with the Code of Construction Practice and the Noise and Vibration Policy developed by the Council to regulate construction methodology and noise and vibration effects, and that the standards applied will be no worse than those specified in the current drafts of the Code and the Policy.

243. Subsection (1) provides that the authorised undertaker must employ all reasonably practicable means to achieve this. In particular this subsection makes it clear that a noise insulation scheme made under section 61 will be on the basis set out in the Noise and Vibration Policy (which identifies the appropriate noise thresholds above which noise insulation should be provided).

244. Subsection (2) ensures that neither the Code of Construction Practice nor the Noise and Vibration Policy can be amended so as to reduce the commitments in relation to the standards of mitigation and protection contained within them.

245. Subsection (3) defines terms used in this section and most importantly identifies which Code of Construction Practice and Noise and Vibration Policy are to be the benchmarks for the purposes of subsection (2).

Section 63B – Mitigation of environmental impacts

246. The Environmental Statement (ES) identifies a range of environmental impacts of the authorised works during construction and operation and suggests measures to mitigate those impacts. It also assesses what residual impacts might remain after the proposed mitigation has been carried out. This section sets out the means by which the environmental standards envisaged by the ES, and by specific pledges by the Council, will be achieved.

247. Subsection (1)(a) ensures that the environmental impact of the tram is no worse than the residual impact identified in the ES. It also allows flexibility in the way the project is carried out, provided that the result is achieved. For example if due to technological advances, the trams operated by the authorised undertaker are quieter than those assumed in the ES, meaning that specific noise mitigation measures are not required, the authorised undertaker is not obliged to institute those measures if the quieter tram achieves the same result.
248. In a similar way, subsection (1)(b) ensures that the standards embodied in the specific pledges made by the Council to either objectors to the Bill or to the Edinburgh Tram (Line Two) Bill Committee will be met. Either the specific mitigation proposed will be provided or the standard of protection envisaged by the pledge will be met.

249. Subsection (2) defines the terms used in this section and most importantly identifies which ES is to be the benchmark for the purposes of subsection (1).

Section 63C – Landscape and habitat management plan

250. The landscape and habitat management plan, prepared during the passage of the Bill, identifies a range of environmental impacts of Work No. 12 on the Roseburn Railway Corridor and suggests measures to mitigate those impacts. As the detailed design for the tram system is still to be developed the landscape and habitat management plan is an evolving document. This section sets out the content of the landscape and habitat management plan and ensures that the authorised undertaker will comply with the landscape and habitat management plan once approved by the local planning authority.

251. Subsection (1) provides that Work No. 12 i.e the works along the Roseburn Railway Corridor cannot commence until the landscape and habitat management plan has been approved by the local planning authority.

252. Subsection (2) provides a non-exhaustive list of matters to be dealt with in the landscape and habitat management plan, including details of trees to be removed, the locations of noise barriers, proposals for maintaining the landscaping and a confidential plan to mitigate any adverse impacts on the habitat of the badgers.

253. Subsection (3) embodies that the commitments given by the Council to the Edinburgh Tram (Line One) Committee in relation to tree replacement, the form of the track and emergency access to the Roseburn Railway Corridor.

254. Subsections (4), (5) and (6) sets out the consultation which will take place prior to the landscape and habitat management plan being submitted for approval.

255. Subsection (8) ensures that the authorised undertaker will comply with the terms of the approved landscape and habitat management plan.

256. Subsection (9) ensures that compliance with the landscape and habitat management plan by the authorised undertaker is enforceable by the local planning authority.

Section 64 – Powers of disposal, agreements for operation, etc.

257. This section allows the Council to enter into an agreement with any organisation to carry out the provisions of the Bill – in other words it may pass on or subcontract the construction, operation or maintenance of the tram or any other power contained in the Bill. Subsection (1) provides the principal power to pass on the works and associated land and the right to operate the tram, either temporarily or permanently.
258. Subsection (2) allows the Council to enter into contracts about the construction, maintenance, use and operation of the tram with any other organisation.

259. Subsection (3) makes it clear that the Council can transfer the powers of operation of the tram separately from the physical assets of the tram.

260. Subsection (4) makes it clear that the restrictions contained in this Bill shall apply also to any organisation to whom the Council has transferred any part of the tram system.

261. Subsection (5) provides that the Council must notify the Scottish Ministers of the transferee under any agreements made under subsection (2).

Section 65 – Application of landlord and tenant law

262. This section is concerned with agreements between the Council and any other organisation under the previous section that involve the lease of land for the use of the other organisation. It makes it clear that such a lease of land will not be overridden by any existing rules or legislation concerned with landlord and tenant law.

263. Subsection (1) sets out the subject-matter of the section, namely agreements under the previous section. Subsection (2) states that such agreements shall not be affected by existing landlord and tenant law.

264. Subsection (3) clarifies what sort of features of such an agreement will be unaffected: rights and obligations under the terms of the lease of land; rights and obligations that are not provided under the terms of the lease but might have applied to the land in question; and the terms of enforcement of the provisions of the lease.

Section 66 – Trams deemed public service vehicles

265. This section allows the Council to include trams within the scope of certain regulations made under the Public Passenger Vehicles Act 1981 as public service vehicles. These are for the regulation of drivers, conductors and inspectors (section 24), the regulation of the conduct of passengers (section 25), the control of numbers of passengers (section 26), the carriage of luggage and goods (section 60(1)(j)), and lost property (section 60(1)(k)). Subsection (1) applies the regulations to trams.

266. Subsection (2) provides that the date on which existing regulations under those sections are to be applied to the tram authorised by this Bill can be fixed by the Council.

267. Subsection (3) provides that at least 28 days before any regulation is to apply, the Council must advertise the fact in a local newspaper.

268. Subsection (4) provides the technical requirements for the newspaper notice to be accepted as evidence in court.
Section 67 – Statutory undertakers, etc.

269. This section brings schedule 9 into effect, which contains provisions for dealing with public utilities whose pipes and wires etc. may be affected by the tram.

Section 68 – Listed buildings and conservation areas

270. This section deals with works required to listed buildings for the construction of the tram. Works to fix apparatus to listed buildings are treated separately to all other works. Only those works described to the buildings specified in Part 1 of schedule 10 will be immune from enforcement action. Works to any other listed buildings will therefore have to be the subject of an application to the local planning authority for listed building consent. Works to fix apparatus to listed buildings will also be immune from enforcement action except for any building listed in Part 2 of schedule 10. Should it later become necessary to attach apparatus to a building listed in Part 2 of schedule 10, then this will have to be the subject of an application for listed building consent.

271. Subsection (1) deals with works other than attachments. It exempts work under this Bill from any action under sections 6, 34(1), 38(1) and 49 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Section 6 forbids works to listed buildings that are not authorised. Section 34(1) allows the local planning authority to issue a listed building enforcement notice. Section 38(1) allows the local planning authority to carry out remedial action described in a listed building enforcement notice itself. Section 49 deals with urgent works to unoccupied listed buildings.

272. Subsection (2) deals with attachments to listed buildings. It is similar to the previous subsection but the exemption is only for works under section 15 (attachments to listed buildings) and only to buildings not listed in Part 2 of schedule 10. If an attachment was required to a building listed in Part 2 of schedule 10, listed building consent would have to be obtained for this.

273. Subsection (3) makes it clear that it is only the works described in Part 1 of schedule 10 to which the immunity from listed building enforcement in subsection (1) applies.

274. Subsection (4) includes listed buildings which had not been listed at the time that this Bill was passed within the scope of this section. This means that the fixing of apparatus to such buildings will be immune from enforcement. Any other works to such buildings would require an application for listed building consent.

275. Subsection (5) provides that an application for conservation area consent need not be made for the demolition of a building that is either listed in Part 1 of schedule 10, or was only included within a conservation area since this Bill was passed. Conservation area consent is normally required for demolishing any unlisted building within a conservation area. Conservation areas are areas of planning protection under the provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

276. Subsection (6) provides that whatever falls within the definition of part of a listed building in the 1997 Act also falls within that definition in this Bill.
277. Subsection (7) disapplies section 53 of the 1997 Act, which would have made it a criminal offence to do works to a listed building without consent.

Section 70 – Town and country planning, etc.

278. Under current Scottish Planning legislation, planning permission is granted in advance for certain specified classes of development and it is not necessary to apply for planning permission in order to carry out such development. This advance granting of planning permission is given through the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. In that order, any development (that is, anything that would normally have required a planning application) authorised by a private Act of the Scottish Parliament is considered to be ‘permitted development’ (Class 29), which means development that automatically receives permission without having to make a planning application. However, the planning permission granted under Class 29 is still subject to the approval of the local planning authority (known as ‘prior approval’) for certain types of work, normally where the work is considered to be a ‘building’.

279. Section 70 deals with any alterations, clarifications or additions to the normal effect of the planning regime explained in the previous paragraph. Subsection (1) asserts that the planning system applies to the Bill where it is not inconsistent with the provisions of the Bill.

280. Subsection (2) refers specifically to the part of the 1992 Order that permits development authorised by a private Act of the Scottish Parliament and limits the effect of the permission to fifteen years from the date that the Bill is passed.

281. Subsection (3) makes it clear that any later work to alter, maintain or repair the works is not caught by the fifteen-year limit.

282. Subsection (4) makes it clear that for the purpose of this Bill “buildings” include electrical substations, tramstops, poles to support overhead wires, and attachments of apparatus to buildings (which are categorised as extensions to buildings). This makes it clear that works to erect these elements of the project will require the prior approval of the planning authority. Subsection (4)(c) includes the criteria for granting listed building consent within the matters that the local planning authority can consider when considering prior approval for work that affects a listed building. Subsection (4)(d) makes it clear that attachments to buildings are included within ‘permitted development’.

283. Subsection (5) refers to parts of the 1992 Order that permit works to railways and tramways. These do not relate to the initial works but apply to future maintenance works. The subsection makes it clear that the part of the 1992 Order dealing with railways will apply to tramroads authorised by this Bill and the part dealing with tramways will apply to road tramways authorised by this Bill. For an explanation of those terms see paragraph 12 of these Notes. The local planning authority has withdrawn the rights to permitted development for those Classes of the 1992 Order for the geographical area of the centre of Edinburgh forming the World Heritage Site. This subsection will ensure that work to the tram system outside the World Heritage Site will be treated as permitted development. Inside the World Heritage Site, the subsection has no effect and so planning permission will be required for any development involved in maintaining the tram system there.
284. Subsection (6) defines the authority who must assess the tramway project for the purposes of the Habitat Regulations (as to its effect on certain land areas and protected species) to be the Scottish Parliament.

Section 71 – Blighted land

285. This section addresses an omission from the Scotland Act 1998 where the blight provisions of the Town and Country Planning (Scotland) Act 1997 were not extended to private Acts of the Scottish Parliament. The section includes this Bill within the scope of those blight provisions. The blight provisions allow certain categories of landowner to require the Council to purchase their land at market value if they cannot do so because of the existence of the compulsory purchase provisions in the Bill.

Section 72 – Saving for roads authority

286. This section asserts the continued right of the roads authority to alter roads along which the tramway is to run, but requires it to obtain the consent of the Council as undertaker before doing so. Such consent cannot be withheld unreasonably, but can be granted subject to conditions. If there is a dispute then Scottish Ministers are to resolve it.

Section 73 – Certification of plans, etc.

287. This section requires the Council to send copies of the plans, sections and book of reference to the Clerk of the Parliament to certify them, and such a certification will be evidence in court as to the plans, sections and book of reference it refers to.

Section 74 – Service of notices

288. This section deals with the requirements for notices that need to be served on people and organisations as a result of the operation of this Bill, which will principally be when the compulsory purchase provision of the Bill are invoked. Subsection (1) provides that notices can be served by post.

289. Subsection (2) provides that notices to be served on corporate bodies can be served on the secretary or clerk of the body.

290. Subsection (3) deals with addresses. If a particular address has been given by someone, it is to be used; if not and it is a body corporate, then the registered or principal office of the body is to be used; if it is not a body corporate, then the last known address is to be used.

291. Subsection (4) deals with the case where the name or address of someone to be served cannot be found after a reasonable amount of effort. In that case, the notice can be served by (if the name is not known) putting ‘the owner’, ‘the occupier’ or ‘the lessee’, and (if the address of the person is not known) leaving it with someone who appears to live or work on the land in question (this will often be a case where a parcel of land is to be acquired but the owner of the land cannot be traced), or fixing it in a conspicuous position on or near the land.

292. Subsection (5) makes it clear that any other method of service that has not been mentioned in this section can still be used.
Section 75 – Application of Railways Act 1993

293. This short section makes it clear that the whole tram system should be defined as a ‘tramway’ for the purposes of railway legislation (rather than falling within the narrow definition of a railway).

Section 76 – Arbitration

294. This section sets out the procedure when the Council as undertaker does not agree with some other person or body from whom it is seeking consent or agreement, or to whom it is giving consent, other than cases where the Lands Tribunal for Scotland or Scottish Ministers are to resolve such a dispute. The parties can agree an arbiter, or if not one will be appointed by the President of the Institute of Civil Engineers. The arbiter can refer a question to the Court of Session if necessary.

295. Subsection (2) disapplies section 108 of the Housing Grants, Construction and Regeneration Act 1996 which has a special arbitration procedure for ‘construction contracts’.

Part 6 – Supplementary

296. The final Part of the Bill deals with technical issues to do with the Bill itself.

Section 77 – Incorporation of enactments

297. In the 19th century, when a large number of private Acts of Parliament were sought to authorise the construction of railways and other infrastructure, a series of Acts were passed that contained ‘model clauses’ that could then be incorporated into each particular private Act to save them from being continually rewritten, and also to save space. While the language is becoming outdated, those ‘clauses Acts’ are still used today, often because no promoter of a private Bill will take it upon themselves to rewrite such tried and tested provisions.

298. Accordingly, most of ‘the Lands Clauses Acts’ which means the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19), the Lands Clauses Consolidation Acts Amendment Act 1860 (c. 60) and any amendments to those Acts, are incorporated into this Bill. The only exception is sections 120 to 125 of the 1845 Act, which is superseded by provisions of this Bill. Subsection (1) incorporates the Acts, and applies them where they are not inconsistent with this Bill. The Acts comprise some 400 sections and it is beyond the scope of these explanatory notes to describe them in detail but in essence they govern the procedure for acquiring land compulsorily. More modern Acts dealing with compulsory purchase procedure do not need to be incorporated as they apply automatically.

299. Subsection (1A) incorporates parts of section 6 of the Railway Clauses Consolidation (Scotland) Act 1845. This will enable compensation to be paid for reduction in property value arising from construction works.

300. Subsection (2) makes it clear that the ‘special Act’, i.e. the Act that the Lands Clauses Acts contemplate being incorporated within, is this Bill, the authorised undertaker in this Bill is what is referred to in the Lands Clauses Acts as ‘the promoters of the undertaking or the
company’, and the authorised works in this Bill are what is referred to as the ‘the works or the undertaking’

Section 78 – Interpretation
301. This section defines terms used in the Bill. It is here, for example, where ‘the authorised undertaker’ is defined as the Council, which is why ‘the Council’ has been used within these notes for simplicity. As a result of the amendments to the route and the removal of various plots within the limits of deviation and the limits of land to acquired or used, all of which have been approved by the Edinburgh Tram (Line One) Committee, the original book of reference, plans and sections have been amended to include substitute plans and information in order to reflect the amendments.

Section 79 - Orders
302. This section deals with any power within the Bill to make orders. Subsection (1) provides that they shall be made by statutory instrument. Subsection (2) provides that the power to make an order is supplemented with a more general power to make further provisions in connection with the order. Subsection (3) provides that the Scottish Parliament shall have the opportunity to annul, in other words to block, an order made under this Bill.

Section 79A – Rights of the Crown
303. This section deals with the acquisition of crown land. Some of the land within the limits of deviation is owned by the Crown and as such, the authorised undertaker would be able to acquire such land once the Bill was passed.

304. However, subsection (2) ensures that the Bill will not authorise the acquisition of such land without the consent of the Crown Estate Commissioners. Subsection (3) provides that such consent may be given with conditions.

Schedules

Schedule 1 – Scheduled works
305. The first schedule describes the main works that make up the tram system. Most of them are the installation of the tram line along sections of the route, but they also include related works such as major alterations to road junctions.

Schedule 2 – Roads subject to alteration of layout
306. The second schedule lists the roads whose layout is proposed to be changed by the Bill. The layouts shown in the plans and described in this schedule are authorised by the Bill – any changes to this are also authorised but must be agreed with the road works authority. The points listed in the third column are shown on the given sheets of the Parliamentary plans.

Schedule 3 – Roads to be permanently stopped up
307. Part 1 of this schedule lists roads to be stopped up with a substitute provided – in other words roads to be diverted. In all three parts of this schedule the third column lists the points shown on the given sheets of the Parliamentary plans.
308. Part 2 of this schedule lists roads that are being stopped up, but only to vehicular access – pedestrians and cyclists will continue to be able to use them.

309. Part 3 lists roads that are to be stopped up with no substitute being provided.

Schedule 4 – Roads to be temporarily stopped up

310. The fourth schedule lists the roads that will be stopped up temporarily while the works are being constructed and that will be re-opened afterwards.

Schedule 5 – Level crossings

311. The fifth schedule lists the points where either the tramroad crosses a road, or the road tramway crosses a more major road than the one it is travelling along.

Schedule 6 – Acquisition of certain land

312. The sixth schedule lists the parcels of land that are required to be acquired permanently outside the limits of deviation (see explanation of section 2). The first and second columns list the sheet of the Parliamentary plans on which the parcel is located and the number by which it is referred to. The third column lists the purpose for which each parcel of land is required. The schedule separates into two Parts the acquisition of land and rights in land.

Schedule 7 – Land of which temporary possession may be taken

313. The seventh schedule lists the parcels of land that are to be used temporarily and returned no later than a year after the works listed in the fourth column have been completed. The first and second columns list the sheet of the Parliamentary plans on which the parcel is located and the number by which it is referred to. The third column lists the purpose for which each parcel of land is required.

Schedule 8 – Permitted events on tram route

314. The eighth schedule lists the only events for which the tram may be required to cease operation.

Schedule 9 – Provisions relating to statutory undertakers, etc.

315. The ninth schedule contains standard provisions to deal with the situation where a statutory undertaker (usually a public utility) is required to move its apparatus because of the building of the tram system.

Schedule 10 – Listed buildings

316. Part 1 of this schedule lists buildings to which work can be carried out without an application for listed building consent being required, and the third column lists the work that can be carried out.
Part 2 of the schedule lists buildings to which equipment may not be attached without an application for listed building consent being made – listed buildings not mentioned in the schedule may have equipment attached to them without further consent.