
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 188

The Network Rail (Waverley Steps) Order 2010

PART 2

WORKS PROVISIONS

Supplementary powers

Safeguarding works to buildings

12.—(1) Subject to the provisions of this article, Network Rail may at its own expense and from time to time carry out such works of the sort described in paragraph (2) as Network Rail considers to be necessary or expedient.

(2) The works referred to in paragraph (1) are safeguarding works, whether within or outside the Order limits, to any building situated wholly or partly on land within those limits.

(3) Safeguarding works may be carried out—

- (a) at any time before or during the construction of any part of the authorised works; or
- (b) after the completion of the construction of the authorised works, at any time up to the end of the period of five years beginning with the day on which the authorised works are first opened for public use.

(4) Schedule 3 has effect.

(5) Network Rail shall compensate the owners and occupiers of any building or land in relation to which the powers conferred by this article and Schedule 3 have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(6) Where—

- (a) safeguarding works to a building are carried out under this article; and
- (b) within the period of 12 years beginning with the day on which the authorised works are first opened for public use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of the authorised works,

Network Rail shall compensate the owners and occupiers of the building for any damage sustained by them.

(7) Nothing in this article relieves Network Rail from any liability to pay compensation under the Lands Clauses Acts.

(8) Any dispute as to a person's entitlement to compensation under paragraph (5) or as to the amount of compensation shall be determined under the 1963 Act.

(9) In this article and Schedule 3 “safeguarding works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, operation or maintenance of the authorised works; and

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- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, operation or maintenance of the authorised works.