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*Changes to legislation: There are currently no known outstanding effects for the Waverley Railway (Scotland) Act 2006, SCHEDULE 5. (See end of Document for details)*

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## SCHEDULE 5

(introduced by section 12)

### SAFEGUARDING WORKS: PROCEDURE

- 1 Safeguarding works may be carried out—
- (a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or
  - (b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of five years beginning with the day on which that part of the authorised works is first opened for use.
- 2 For the purpose of determining how the powers of section 12 of this Act are to be exercised, the authorised undertaker may enter and survey any building falling within subsection (1) of that section and any land belonging to it.
- 3 For the purpose of carrying out safeguarding works to a building under section 12 of this Act, the authorised undertaker may (subject to paragraphs 4 and 5 below)—
- (a) enter the building and any land belonging to it; and
  - (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).
- 4 Before exercising—
- (a) a right under section 12 of this Act above to carry out safeguarding works to a building;
  - (b) a right under paragraph 2 above to enter a building;
  - (c) a right under paragraph 3(a) above to enter a building or land; or
  - (d) a right under paragraph 3(b) above to enter land,
- the authorised undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right; and in a case falling within sub-paragraph (a) or (c) above the notice shall also specify the safeguarding works proposed to be carried out.
- 5 Where notice is served under paragraph 4(a), (c) or (d) above, the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under section 34 of this Act.
- 6 The authorised undertaker shall compensate the owners and occupiers of any building or land in relation to which the powers of this schedule have been exercised for any loss or damage arising to them by reason of the exercise of those powers.
- 7 Where—
- (a) safeguarding works to a building are carried out under section 12 of this Act; and
  - (b) within the period of five years beginning with the day on which the part of the authorised works constructed in the vicinity of the building is first opened for use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the authorised works,
- the authorised undertaker shall compensate the owners and occupiers of the building for any damage sustained by them.

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- 8        Nothing in this schedule shall relieve the authorised undertaker from any liability to pay compensation under the Land Clauses Acts.
- 9        Any compensation payable under paragraph 7 above or under the Lands Clauses Acts shall be determined, in case of dispute, under the 1963 Act.

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