
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 188

The Network Rail (Waverley Steps) Order 2010

PART 2

WORKS PROVISIONS

Supplementary powers

Power to survey and investigate land

13.—(1) Network Rail may, in relation to any land within the Order limits, for the purposes of this Order—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of paragraph (a), make trial holes in such positions as the Network Rail thinks fit on the land to investigate the nature of the surface layer and subsoil and remove water and soil samples;
- (c) without prejudice to the generality of paragraph (a), carry out archaeological investigations on the land;
- (d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the authorised works;
- (e) place on, leave on and remove from the land, or, where the land is occupied by a building any part of which is on adjoining land outside the Order limits, that adjoining land, apparatus for use in connection with the exercise of any power conferred by paragraphs (a) to (d); and
- (f) enter on the land, or, where the land is occupied by a building any part of which is on adjoining land outside the Order limits, that adjoining land, for the purpose of exercising any power conferred by paragraphs (a) to (e).

(2) Before exercising any powers conferred by paragraph (1), Network Rail shall give—

- (a) on the first occasion at least seven days'; and
- (b) on subsequent occasions not less than three days',

notice in writing to every owner and occupier of the land.

(3) Any person entering land under this article on behalf of Network Rail—

- (a) shall, if so required, before or after entering the land produce written evidence of authority to do so; and
- (b) may enter with such vehicles and equipment as are necessary for the purpose of exercising any of the powers conferred by paragraph (1).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) No trial hole may be made under this article in a carriageway⁽¹⁾ or footway without the consent of the road works authority, but such consent shall not be unreasonably withheld.

(5) Any dispute as to whether consent has been unreasonably withheld under paragraph (4) shall, unless the parties otherwise agree, be referred to arbitration.

(6) Network Rail shall pay compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of compensation, shall be determined under the 1963 Act.

(8) For the purposes of this article "footway" shall be construed in accordance with section 151(2) of the 1984 Act.

(1) See the definition in the Roads (Scotland) Act 1984 (c.54), section 151, applied by the Transport and Works (Scotland) Act 2007 (asp 8), section 23(1).