
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 188

The Network Rail (Waverley Steps) Order 2010

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Rights in roads or public places

18.—(1) Network Rail may—

- (a) enter upon and appropriate so much of the subsoil of, or air-space over, any road or public place comprised within plot no. 4, 10, 11, or 12, or shown on sheet no. 1 of the Order plans as an area of temporary stopping up, as may be required for the purposes or in consequence of the authorised works; and
- (b) use the subsoil or air-space for those purposes.

(2) Subject to paragraph (3) the powers conferred by paragraph (1) may be exercised in relation to a road or public place without Network Rail being required to acquire any part of the road or place or any servitude or other right in relation to it.

(3) Paragraph (2) does not apply to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in or on a road which forms part of a building fronting onto the road or public place.

(4) Network Rail is not required to pay compensation for the exercise of the powers conferred by paragraph (1) to the roads authority in respect of a public road or to the authority in which any public place is vested.

(5) Any person other than an authority mentioned in paragraph (4) who—

- (a) is an owner or occupier of land in respect of which the power conferred by paragraph (1) is exercised without Network Rail acquiring any part of that person's interest in the land; and
- (b) suffers loss by reason of the exercise of that power,

shall be entitled to compensation.

(6) 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.

(7) For the purposes of section 28 of the Land Registration (Scotland) Act 1979⁽¹⁾, the powers conferred by this article shall constitute a real right and shall be an overriding interest.

(1) 1979 c.33. Section 28 includes a definition of "overriding interest" to which there are amendments not relevant to this Order.