



Edinburgh Tram (Line One) Act 2006

2006 asp 7

PART 1

WORKS

Supplemental powers

18 Safeguarding works to buildings

- (1) Subject to the following provisions of this section the authorised undertaker may at its own expense and from time to time carry out such safeguarding works to any building lying within the limits of deviation as the authorised undertaker considers to be necessary or expedient.
- (2) 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 5 years beginning with the day on which that part of the authorised works is first opened for use.
- (3) For the purpose of determining how the functions under this section are to be exercised, the authorised undertaker may enter and survey any building falling within subsection (1) and any land belonging to it.
- (4) For the purpose of carrying out safeguarding works under this section to a building the authorised undertaker may (subject to subsections (5) and (6))—
 - (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).
- (5) Before exercising—
 - (a) a right under subsection (1) to carry out safeguarding works to a building,
 - (b) a right under subsection (3) to enter a building,
 - (c) a right under subsection (4)(a) to enter a building or land, or

Status: This is the original version (as it was originally enacted).

- (d) a right under subsection (4)(b) 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 paragraph (a) or (c), specifying the safeguarding works proposed to be carried out.
- (6) Where notice is served under subsection (5)(a), (c) or (d), 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 80 (Arbitration).
- (7) The authorised undertaker shall compensate the owners and occupiers of any building or land in relation to which the powers conferred by this section have been exercised for any loss or damage arising to them by reason of the exercise of those powers.
- (8) Where—
- (a) safeguarding works are carried out under this section to a building, and
 - (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within 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 works,
- the authorised undertaker shall compensate the owners and occupiers of the building for any damage sustained by them.
- (9) Nothing in this section shall relieve the authorised undertaker from any liability to pay compensation under Schedule 3 to the 1963 Act.
- (10) Any compensation payable under subsection (7) or (8) shall be determined, in case of dispute, under Part II of the 1963 Act.
- (11) In this section—
- “building” includes any structure or erection or any part of a building, structure or erection, and
 - “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, maintenance or operation of the authorised works; and
 - (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.