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## SCHEDULE

### RAILTRACK (WAVERLEY STATION)

- “1 Short title.
- 2 Interpretation.
- 3 Limitation of certain restrictions relating to Waverley Station.
- 4 Dimensions of structures at Waverley Bridge, Market Street and New Street.
- 5 Leased land at Waverley Station: making good feudal title.
- 6 Saving for town and country planning.
- 7 Repeals.

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#### Schedules:

Schedule 1 — Structures at Waverley Bridge, Market Street and New Street.

Schedule 2 — Repeals.

*Provisional Order to limit the operation of restrictions which may affect Waverley Station in the city of Edinburgh or the land on which it is situated; to repeal certain local statutory provisions relating to Waverley Station; to make good the feudal title to some of the land within Waverley Station; and for connected purposes.*

#### WHEREAS—

- (1) Waverley Station, Edinburgh (“Waverley Station”) is vested in Railtrack PLC (“the Company”) as the licensed operator of the station pursuant to the Railways Act 1993:
- (2) The Company’s Network Licence Conditions require the Company, inter alia, to secure the maintenance, renewal and replacement, and improvement, enhancement and development of the railway network (including Waverley Station) in a timely, economic and efficient manner so as to satisfy the reasonable requirements of persons providing services for the carriage of passengers or goods by railway and funders in respect of the quality and capability of the network; and to do so to the greatest extent reasonably practicable having regard, among other matters, to the Company’s ability to finance its licensed activities:
- (3) Waverley Station was last substantially re-designed and reconstructed following authorisation obtained in 1894 and is now inadequate to meet current and future needs as a key element in the railway infrastructure of Scotland and the United Kingdom as a whole:
- (4) The local Acts which authorised the construction of Waverley Station (“the station Acts”) contain various restrictions concerning the design of the station buildings and it is believed that there may be other restrictions affecting the station buildings:

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- (5) In particular, the Waverley Station (“the station Acts restrict the height of the station buildings. With the exception of certain specified structures, the general effect of the restrictions is to impose a maximum permissible building height of 42 feet (12.80 metres or thereby) above the level of the rails. Taking rail level as 49.91 metres or thereby above Ordnance Datum (Newlyn), this equates to 62.71 metres or thereby above Ordnance Datum (Newlyn):
- (6) The Company, through its statutory predecessors, has a leasehold title to approximately 384 square metres of the land now occupied by Waverley Station but such title as it has been able to acquire from the persons apparently entitled to the landlord’s heritable interest in the feudal title is or may be defective:
- (7) In order to improve and develop Waverley Station to meet current and future needs, and in order to fund such development, it will be necessary to enhance the station operations, and for that purpose to redesign, replace and enhance existing station structures:
- (8) In order to accommodate these changes the height of station buildings situated in the main station area must be increased by up to 2 metres, which requires a general maximum permissible building height throughout that area equating to 64.71 metres or thereby above Ordnance Datum (Newlyn):
- (9) In addition, it is intended to seek planning permission for buildings within the main station area which will or may include the structures briefly described below. Each of these will require the current maximum permissible building height relating to the land occupied by each structure to be increased by the amount specified below, equating to the Ordnance Datum levels also shown:
- (10) The structures referred to above are—

	Increase above current maximum height	Metres above Ordnance Datum (Newlyn)
(a) Translucent roof at Waverley Bridge (the rectangle marked “A” within area E on the signed plan)	8 metres	70.71
(b) Station entrance at Market Street (within area B on the signed plan)	3.5 metres	66.21
(c) Buildings at New Street and East Market Street (New Street Car Park)—		
(i) within area C on the signed plan,	10 metres	72.71
(ii) within area D on the signed plan.	13 metres	75.71

- (11) In preparation for extensive works which will be required to effect these changes it is expedient to disapply such restrictions as are known or believed to exist to the extent that they would or might prevent the intended works of improvement other than the like for like replacement of existing structures:

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- (12) It is expedient that the feudal title to the land the subject of the 1776 tack should be vested in the Company:
- (13) A plan of the land the feudal title to which is to be vested by this Order, and a book of reference to that plan containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said land, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the Sheriff Clerk, Edinburgh, which plan and book of reference are respectively referred to in this Order as the deposited plan and the deposited book of reference:
- (14) The purposes of this Order cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore, in pursuance of the powers contained in the said Act of 1936, the Secretary of State orders as follows:—

### **Short title**

- 1 This Order may be cited as the Railtrack (Waverley Station) Order 2000.

### **Interpretation**

- 2 In this Order—
- “the 1776 tack” means the tack dated 2nd February 1776 and made between Dr. Thomas Glen and others, a quorum of the Committee of Managers of the Incorporation of the Orphan Hospital of the one part and Willielma Lady Glenorchy of the other part whereby the leased land was let for the term of 900 years from Whit Sunday 1775;
- “the Company” means Railtrack PLC;
- “the main station area” means the land shown for the purpose of identification only coloured green on the signed plan, comprising so much of Waverley Station as lies to the east of Waverley Bridge;
- “the signed plan” means the plan of the main station area five copies of which have been signed by Eric Clarke, M.P., Chairman of the Commissioners to whom the draft of this Order was referred, and a copy of which has been deposited in each of the offices of the Clerk of the Parliaments, the Private Bill Office of the House of Commons, the Sheriff Clerk, Edinburgh, the Chief Executive of the City of Edinburgh Council and the Director, Scotland, of Railtrack; and
- “Waverley Station” means Waverley Station in the city of Edinburgh.

### **Limitation of certain restrictions relating to Waverley Station**

- 3 (1) Nothing in any instrument or in any enactment (including this Order) which relates to Waverley Station or to the main station area shall prevent the implementation of any grant of planning permission under the Town and Country Planning (Scotland) Act 1997 or listed building consent under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 for the development of the main station area for railway and other uses which includes the construction of one or more buildings with a height not exceeding 64.71 metres above Ordnance Datum (Newlyn).

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- (2) The Company shall pay to any person who suffers loss by reason of the operation of this section compensation determined, in case of difference, in accordance with the provisions of Part III of the Land Compensation (Scotland) Act 1963.

#### **Dimensions of structures at Waverley Bridge, Market Street and New Street**

- 4 Without prejudice to the generality of section 3 of this Order, nothing in any instrument or in any enactment (including this Order) which relates to Waverley Station or to the main station area shall prevent the Company from implementing so much of any grant of planning permission under the Town and Country Planning (Scotland) Act 1997 or listed building consent under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as permits the construction in the main station area, within each of the areas of land described in column (1) of Schedule 1, of structures of the sort described in respect of each area in column (2) and of dimensions not exceeding those specified in column (3).

#### **Leased land at Waverley Station: making good feudal title**

- 5 (1) On the commencement of this Order the feudal title to so much of the land numbered 1 on the deposited plan as comprises the leased land shall vest in the Company to the extent that it is not already so vested.
- (2) The Company shall pay to any person who, immediately before 27th November 1998, was entitled to the landlord's heritable interest in the feudal title to the leased land compensation representing the value of the feudal interest in the leased land as at the commencement of this Order, the amount of such compensation to be determined in case of difference in accordance with Part III of the Land Compensation (Scotland) Act 1963.
- (3) Insofar as compensation under this section falls to be paid to the Trustees of the Dean Orphanage and Cauvin's Trust, there shall be off-set against the amount of such compensation all sums paid prior to the commencement of this Order by the Company to those Trustees in respect of the leased land.
- (4) The Company may require the persons from whom it has acquired what purports to be the feudal title to the leased land to provide an indemnity in respect of any subsequent claims made against the Company in respect of such title, but the amount of any such indemnity shall not exceed the total amount paid by the Company to those persons in respect of the leased land in terms of subsection (1) of this section.
- (5) In this section "the leased land" means the land (measuring 384 square metres or thereby and forming part of the land numbered 1 on the deposited plan) the subject of the 1776 tack.

#### **Saving for town and country planning**

- 6 (1) The Town and Country Planning (Scotland) Act 1997 and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and any orders, regulations, rules, schemes and directions made or given thereunder, and any restrictions or powers thereby imposed or conferred in relation to land or buildings or other structures thereon, shall apply and may be exercised in relation to any land or buildings or other structures thereon, notwithstanding that the development thereof or any works in relation thereto are or may be regulated by or under this Order.

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(2) Nothing in this Order shall be deemed to authorise any development.

## Repeals

7 The enactments mentioned in Schedule 2 to this Order are hereby repealed to the extent specified in the third column of that Schedule.

# SCHEDULES

## SCHEDULE 1

### STRUCTURES AT WAVERLEY BRIDGE, MARKET STREET AND NEW STREET

Area	Structure	Maximum dimensions
(1)	(2)	(3)
<p><i>Translucent roof at Waverley Bridge</i></p> <p>A rectangle of land (measuring 70 metres or thereby from north to south and 67.20 metres or thereby from east to west, and comprising 4,704 square metres or thereby) situated within the area of land –</p> <p>(a) bounded on the north by the existing northern boundary of Waverley Station adjoining the southern wall of Princes Mall,</p> <p>(b) fronting Waverley Bridge for a length of 129 metres or thereby (comprising the Waverley Bridge frontage of the main station area), and</p> <p>(c) extending eastwards over the main station area for a uniform distance of 67.20 metres or thereby.</p> <p>(d) <i>Note: (i) The area marked “E” on the signed plan shows for the purpose of</i></p>	<p>A roof structure of glass or other translucent material.</p>	<p>Height: 70.71 metres above Ordnance Datum (Newlyn). Area: 4,704 square metres.</p>

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Area (1)	Structure (2)	Maximum dimensions (3)
<p><i>identification only) the area of land described in (a), (b) and (c) above.</i></p> <p>(ii) <i>The rectangle marked “A” on the signed plan represents a rectangle of the specified dimensions. The roof structure described in column (2) may be constructed to those dimensions in any situation within the area marked “E”.</i></p>		
<p><i>Market Street entrance</i>  The rectangle of land (comprising 528 square metres or thereby)–</p> <p>(a) bounded on the south by Market Street from the point at which the existing boundary of Waverley Station abuts the eastern wall of No. 29 Market Street and extending eastwards for a distance of 39 metres or thereby, and</p> <p>(b) extending northwards over the station for a uniform distance of 13.5 metres or thereby.</p> <p><i>Note: The area marked “B” on the signed plan shows (for the purpose of identification only) the area of land described in (a) and (b) above.</i></p>	<p>A station entrance and roof structure.</p>	<p>Height: 66.21 metres above Ordnance Datum (Newlyn).  Area: 528 square metres.</p>
<p><i>Buildings at New Street and East Market Street (New Street Car Park)</i>  1. The area of land (comprising 9,833 square metres or thereby) within a line–</p> <p>(a) commencing on the northern side of East Market Street at a point 70 metres or thereby</p>	<p>A building or buildings.</p>	<p>Height: 72.71 metres above Ordnance Datum (Newlyn).  Area: 9,833 square metres.</p>

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Area (1)	Structure (2)	Maximum dimensions (3)
<p>eastwards from the point at which the eastern boundary of North Bridge crosses the northern side of East Market Street,</p> <p>(b) extending northwards for a distance of 35 metres or thereby,</p> <p>(c) extending eastwards for a distance of 255 metres or thereby to the building line on the western side of New Street,</p> <p>(d) extending southwards along the building line on the western side of New Street for a distance of 30.22 metres or thereby,</p> <p>(e) extending westwards for a distance of 140 metres or thereby,</p> <p>(f) extending southwards for a distance of 32 metres or thereby to the building line on the northern side of East Market Street, and</p> <p>(g) extending westwards along the building line on the northern side of East Market Street to terminate at the commencement point.</p> <p><i>Note: The area marked “C” on the signed plan shows (for the purpose of identification only) the area of land described in (a) to (g) above.</i></p>	<p>A building or buildings.</p>	<p>Height: 75.71 metres above Ordnance Datum (Newlyn).                      Area: 6,820 square metres.</p>
<p>2.The area of land (comprising 6,820 square metres or thereby) within a line–</p> <p>(a) commencing at the south eastern boundary of New Street Car Park</p>		

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Area (1)	Structure (2)	Maximum dimensions (3)
<p>where it adjoins the junction of East Market Street and New Street,</p> <p>(b) extending northwards along the building line on the western side of New Street for a distance of 65.43 metres or thereby,</p> <p>(c) extending westwards for a distance of 140 metres or thereby,</p> <p>(d) extending southwards for a distance of 32 metres or thereby to the building line on the northern side of East Market Street, and</p> <p>(e) extending eastwards along the building line on the northern side of East Market Street to terminate at commencement point.</p> <p><i>Note: The area marked “D” on the signed plan shows (for the purpose of identification only) the area of land described in (a) to (e) above.</i></p>		

## SCHEDULE 2

### REPEALS

Chapter (1)	Short title (2)	Extent of repeal (3)
14 & 15 Vict. c.xxvii.	North British Railway (Stations Enlargement) Act 1851.	Section 14.
28 & 29 Vict. c.clii.	North British Edinburgh Station and Market Act 1865.	In section 13, the words “and no furnace or chimney, other than that of an ordinary house fire, shall be formed in any

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Chapter (1)	Short title (2)	Extent of repeal (3)
		building to be erected on the said ground;”.
		In section 14, the words— “for passenger traffic only”; “and so that no furnace or chimney, other than a chimney for an ordinary house fire, shall be formed in any such building or shed”; “of iron and glass and”; and the words from “and that the external” to the end of the section.
29 & 30 Vict. c.cclxvi.	North British Railway (New Works) Act 1866.	Section 41.
35 & 36 Vict. c.cxxiii.	North British Railway Act 1872.	In Schedule (B), article 8 of the scheduled agreement.
40 & 41 Vict. c.lviii.	North British Railway (Additional Works and Powers) Act 1877.	In the Second Schedule— in article 6 of the scheduled agreement, the words “nor shall they erect chimneys within 30 feet of the said ground”; and article 7.
57 & 58 Vict. c.clii.	North British Railway Act 1894.	Section 28.”