STATUTORY INSTRUMENTS

2001 No. 2870

The Railtrack (Shortlands Junction) Order 2001

PART II
WORKS

Principal powers

Safeguarding works to buildings

8.—(1) Subject to the following provisions of this article, Railtrack may at its own expense and from time to time carry out such safeguarding works to any building within the Order limits as Railtrack 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 to use.

(3) For the purpose of determining how the functions under this article are to be exercised Railtrack may enter and survey any building falling within paragraph (1) above and any land belonging to it.

(4) For the purpose of carrying out safeguarding works under this article to a building Railtrack may (subject to paragraphs (5) and (6) 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).

(5) Before exercising—

(a) a right under paragraph (1) above to carry out safeguarding works to a building;

(b) a right under paragraph (3) above to enter a building;

(c) a right under paragraph (4)(a) above to enter a building or land; or

(d) a right under paragraph (4)(b) above to enter land,

Railtrack 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 within sub-paragraph (a) or (c) above, specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(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 article 31 below.

(7) Railtrack shall compensate the owners and occupiers of any building or land in relation to which the powers of this article 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 article 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 or that part of the works,

Railtrack shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Nothing in this article shall relieve Railtrack from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) above shall be determined, in case of dispute, under Part I of the 1961 Act.

(11) In this article—

   (a) "building" includes any structure or erection or any part of a building, structure or erection; and

   (b) "safeguarding works", in relation to a building, means—

      (i) 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

      (ii) 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.