
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 188

The Network Rail (Waverley Steps) Order 2010

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Acquisition of subsoil, servitudes and other rights

15.—(1) In exercise of any of the powers conferred by article 14 Network Rail may, as regards any land authorised to be acquired under that article, compulsorily acquire—

- (a) so much of the subsoil of the land; and
- (b) such servitudes or other rights in, on or over the land,

as may be required for any purpose for which the land may be acquired under that article.

(2) Servitudes and other rights may be acquired under paragraph (1) by creating them as well as by acquiring servitudes and other rights already in existence.

(3) Section 90 of the 1845 Lands Act and paragraph 20 of Schedule 15 to the 1997 Act (which provide in certain circumstances for the owner of the land to require the compulsory purchase of the whole rather than part of that property) shall not apply to any compulsory purchase under this article or under article 16.

(4) Subject to paragraphs (5) and (6), the Lands Clauses Acts, as incorporated with this Order, shall have effect with the modifications necessary to make them apply to the compulsory acquisition of servitudes or other rights under this article or under article 16 as they apply to the compulsory acquisition of land.

(5) As so having effect, references in those Acts to land shall be treated as, or as including, references to servitudes or other rights or to the land over which such servitudes or other rights are to be exercisable.

(6) Section 61 of the 1845 Lands Act (estimation of purchase money and compensation) shall apply to the compulsory acquisition of such a right as if for the words from “value” to “undertaking” there were substituted the words “extent (if any) to which the value of the land in or over which the right is to be acquired is depreciated by the acquisition of the right”.