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## Railways Act 1993

1993 c. 43 Part III Statutory authority Section 122

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### 122 Statutory authority as a defence to actions in nuisance etc.

- (1) Subject to the following provisions of this section—
- (a) any person shall have authority—
- (i) to use, or to cause or permit any agent or independent contractor of his to use, rolling stock on any track, or
- (ii) to use, or to cause or permit any agent or independent contractor of his to use, any land comprised in a network, station or light maintenance depot for or in connection with the provision of network services, station services or light maintenance services, and
- (b) any person who is the owner or occupier of any land shall have authority to authorise, consent to or acquiesce in—
- (i) the use by another of rolling stock on any track comprised in that land, or
- (ii) the use by another of that land for or in connection with the provision of network services, station services or light maintenance services,
- if and so long as the qualifying conditions are satisfied in the particular case.
- (2) For the purposes of this section, the “qualifying conditions” are—
- (a) in relation to any use of rolling stock on track—
- (i) that the track is comprised in a network, station or light maintenance depot, and
- (ii) that the operator of that network, station or light maintenance depot is the holder of an appropriate licence or has the benefit of an appropriate licence exemption; and
- (b) in relation to any use of land for or in connection with the provision of network services, station services or light maintenance services, that the operator of the network, station or light maintenance depot in question is the holder of an appropriate licence or has the benefit of an appropriate licence exemption.
- (3) The authority conferred by this section is conferred only for the purpose of providing a defence of statutory authority—
- (a) in England and Wales—
- (i) in any proceedings, whether civil or criminal, in nuisance; or
- (ii) in any civil proceedings, other than proceedings for breach of statutory duty, in respect of the escape of things from land;
- (b) in Scotland, in any civil proceedings on the ground of nuisance where the rule of strict liability applies, other than proceedings for breach of statutory duty.
- (4) Nothing in this section shall be construed as excluding a defence of statutory authority otherwise available under or by virtue of any enactment.
- (5) The owner or occupier of any land shall be regarded for the purposes of this section as “acquiescing” in—
- (a) any use by another of rolling stock on track comprised in that land, or
- (b) any use of that land by another for or in connection with the provision of network services, station services or light maintenance services,
- notwithstanding that it is not within his power to put an end to that use by that other.
- (6) For the purposes of this section—

- (a) any reference to the use of rolling stock on track includes a reference to the carriage of any passengers or other persons, or any goods, of any class or description for any purpose on or by means of that rolling stock on that track: and
- (b) rolling stock shall be regarded as "used" on any track at any time when it is present on that track, irrespective of whether the rolling stock is comprised in a train or not, whether the rolling stock is moving or stationary and, if moving, irrespective of the means by which the motion is caused.

(7) In this section—

"appropriate licence", in relation to the operator of a network, station or light maintenance depot, means a licence which authorises him to be the operator of that network, station or light maintenance depot:

"appropriate licence exemption", in relation to the operator of a network, station or light maintenance depot, means any such licence exemption as exempts him from the requirement to hold the licence that would otherwise be the appropriate licence in his case:

and expressions used in this section and in Part I above have the same meaning in this section as they have in that Part.

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