

Status: Point in time view as at 31/03/2023.

Changes to legislation: Harbours Act 1964, Cross Heading: Notices is up to date with all changes known to be in force on or before 18 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3

PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

Textual Amendments

- F1** Sch. 3 substituted (1.2.2000) by [The Harbour Works \(Environmental Impact Assessment\) Regulations 1999 \(S.I. 1999/3445\)](#), reg. 15(4), **Sch. 3**

Modifications etc. (not altering text)

- C1** Sch. 3 modified (1.4.2001) by [2000 c. 38, s. 37, Sch. 5 para. 1\(2\)\(j\)](#) (with s. 106); [S.I. 2001/869, art.2](#)
- C1** Sch. 3: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 29\(2\)\(b\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))

PART I

ORDERS MADE ON APPLICATION TO THE SECRETARY OF STATE

Notices

- 10 (1) An applicant shall arrange for a notice to be published—
- (a) by Gazette and local advertisement, and
 - (b) in such other ways as the Secretary of State may direct.
- (2) The notice must—
- (a) state that an application has been made for the order,
 - (b) state the Secretary of State's decision under paragraph 4 and any reasons given under paragraph 6(1),
 - [^{F2}(ba) if the Secretary of State gives a direction in respect of the project under paragraph 20A, 20B, 20C or 20D (exemptions and deferral), state that such a direction has been given,]
 - (c) state whether an environmental statement has been supplied under paragraph [^{F3}8(1)(a)],
 - (ca) [^{F4}where such a statement has been supplied—
 - (i) provide an address from which a copy of the statement can, until the expiry of the period referred to in paragraph (f), be obtained and information as to the amount of any charge for the provision of such a copy, and
 - (ii) state whether paragraph 16 applies,]]
[^{F5}where such a statement has been supplied—

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- (i) provide an address from which a copy of the statement can, until the expiry of the period referred to in head (f), be obtained and information as to the amount of any charge for the provision of such a copy,
 - (ii) provide an address from which further information about the works proposed to be authorised can, until the expiry of that period, be obtained, and
 - (iii) state whether paragraph 16 applies,]
 - (d) contain a concise summary of the draft order,
 - (e) give a general description of any land proposed for compulsory acquisition and of the nature of any works proposed to be authorised,^{F6F7} ...
 - (f) state that any person who desires to object to the application [^{F8}or to make representations in relation to any environmental statement supplied under paragraph 8(1)] [^{F9}or to make representations in relation to any environmental statement supplied under paragraph 8(1)] should do so in writing to the Secretary of State, specifying [^{F10}(where relevant)] [^{F11}(where relevant)] the grounds of the objection, before the expiry of the period of 42 days starting with a date specified in the notice, [^{F12}and
 - (g) provide details of the procedure under this Schedule for dealing with any objection or representations made under head (f)] [^{F13}and
 - (g) provide details of the procedure under this Schedule for dealing with any objection or representations made as mentioned in the notice].
- [^{F14}(2A) Any charge imposed as mentioned in sub-paragraph (2)(ca)(i) must be reasonable.]
- (3) The date specified in accordance with sub-paragraph (2)(f) must be the date on which the notice first appears in a local newspaper.
 - (4) The notice must also specify a place where copies of the following documents can [^{F15}, until the expiry of the period referred to in sub-paragraph (2)(f),] [^{F16}, until the expiry of the period referred to in sub-paragraph (2)(f),] be inspected at all reasonable hours—
 - (a) the draft order,
 - (b) the decision of the Secretary of State referred to in sub-paragraph (2)(b),
 - (c) any environmental statement supplied under paragraph 8(1), and
 - (d) any map accompanying the application.
 - (5) The copy of the map referred to in sub-paragraph (4)(d) must be drawn to the same scale as that map.
- [^{F17}(6) If an applicant publishes a notice which states that an environmental statement has been supplied under paragraph 8(1)(a), the applicant must supply the Secretary of State with a copy of the notice—
- (a) as soon as possible, and
 - (b) in any event within the period of three working days starting with the date specified in accordance with sub-paragraph (2)(f).
- (7) In this paragraph and paragraph 10A, “working day” means a day other than—
- (a) Saturday or Sunday,
 - (b) Christmas Day or Good Friday, or

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- (c) any day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom where the harbour, dock or wharf to which the application relates is situated.

- (8) The Secretary of State may specify the form in which, and means by which, the copy of the notice is to be provided.]

Textual Amendments

- F2** Sch. 3 para. 10(2)(ba) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(12)(a)(i)** (with Sch. 6 paras. 2(2), 3(3))
- F3** Word in Sch. 3 para. 10(2)(c) substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(12)(a)(ii)** (with Sch. 6 paras. 2(2), 3(3))
- F4** Sch. 3 para. 10(2)(ca) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(a)** (with reg. 1(2))
- F5** Sch. 3 para. 10(2)(ca) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(i)**, 30(3) (with s. 30(5))
- F6** Word in Sch. 3 para. 10(2)(e) repealed (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(ii)**, 30(3) (with s. 30(5))
- F7** Word in Sch. 3 para. 10(2) omitted (E.W.) (10.3.2009) by virtue of [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(b)** (with reg. 1(2))
- F8** Words in Sch. 3 para. 10(2)(f) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(c)** (with reg. 1(2))
- F9** Words in Sch. 3 para. 10(2)(f) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(iii)**, 30(3) (with s. 30(5))
- F10** Words in Sch. 3 para. 10(2)(f) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(d)** (with reg. 1(2))
- F11** Words in Sch. 3 para. 10(2)(f) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(iv)**, 30(3) (with s. 30(5))
- F12** Sch. 3 para. 10(2)(g) and preceding word added (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(v)**, 30(3) (with s. 30(5))
- F13** Sch. 3 para. 10(2)(g) and preceding word added (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(e)** (with reg. 1(2))
- F14** Sch. 3 para. 10(2A) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(3)** (with reg. 1(2))
- F15** Words in Sch. 3 para. 10(4) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(4)** (with reg. 1(2))
- F16** Words in Sch. 3 para. 10(4) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(c)**, 30(3) (with s. 30(5))
- F17** Sch. 3 para. 10(6)-(8) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(12)(b)** (with Sch. 6 paras. 2(2), 3(3))

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- [^{F18}10ZA] If the Secretary of State receives a copy of a notice from an applicant under paragraph 10(6), the Secretary of State must—
- (a) make the specified documents available for inspection on an official website as soon as reasonably practicable after the Secretary of State receives the copy, and
 - (b) keep the documents available on the website throughout the period required to ensure the effective participation of the public in the environmental impact assessment.
- (2) A failure to make the documents available throughout the period specified in sub-paragraph (1)(b) is to be disregarded if—
- (a) the specified documents were available on the official website for part of that period, and
 - (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (3) The specified documents are—
- (a) the copy of the notice,
 - (b) a copy of the draft order to which the notice relates,
 - (c) a copy of the environmental statement mentioned in the notice, and
 - (d) a copy of any map which accompanied the application to which the notice relates.
- (4) If the size or form of a specified document means that it is not practicable for the document to be made available on the official website—
- (a) the Secretary of State must state on the website how a copy of the document may be obtained, and
 - (b) where the Secretary of State does so—
 - (i) the requirement in sub-paragraph (1)(a) as it applies in relation to the document is taken to be satisfied, and
 - (ii) the requirement in sub-paragraph (1)(b) applies to the statement.

Textual Amendments

F18 Sch. 3 paras. 10ZA, 10ZB inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(13)** (with Sch. 6 paras. 2(2), 3(3))

- 10ZB.(1) This paragraph applies if an applicant makes an EIA application and before the Secretary of State makes a decision under paragraph 19(6) in relation to the application—
- (a) the applicant supplies the Secretary of State with information in accordance with a direction under paragraph 8A(1)(a), or
 - (b) the applicant or any other person supplies the Secretary of State with information which the Secretary of State is satisfied must be considered in order to assess properly the significant effects of the project on the environment.
- (2) The Secretary of State must—
- (a) make the information available on an official website as soon as reasonably practicable after the Secretary of State receives it, and

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- (b) keep the information available on the website throughout the period required to ensure the effective participation of the public in the environmental impact assessment.
- (3) A failure to make the further information available throughout the period specified in sub-paragraph (2)(b) is to be disregarded if—
 - (a) the information was available on the official website for part of that period, and
 - (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (4) If the size or form of any further information means that it is not practicable for it to be made available on the official website—
 - (a) the Secretary of State must state on the website how a copy of the information may be obtained, and
 - (b) where the Secretary of State does so—
 - (i) the requirement in sub-paragraph (2)(a) as it applies in relation to the information is taken to be satisfied, and
 - (ii) the requirement in sub-paragraph (2)(b) applies to the statement.]

Textual Amendments

F18 Sch. 3 paras. 10ZA, 10ZB inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(13)** (with Sch. 6 paras. 2(2), 3(3))

- [^{F19}10A] (1) Where further information is made available on an official website under paragraph 10ZB, the Secretary of State must publish, or direct another person to publish, an information notice.
- (2) But the Secretary of State is not required to publish, or direct the publication of, an information notice if the Secretary of State considers that the information will be made publicly available at an inquiry or hearing under paragraph 18.
 - (3) An information notice must—
 - (a) state that the Secretary of State has received the information,
 - (b) specify a place where a copy of the information can, until the expiry of the period referred to in paragraph (d), be inspected at all reasonable hours,
 - (c) provide an address from which a copy of the information can, until the expiry of that period, be obtained and details of the amount of any charge for the provision of such a copy, and
 - (d) state that any person who desires to make representations in relation to the further information should do so in writing to the Secretary of State before the expiry of the period of 42 days starting with a date specified in the notice.
 - (4) The information notice must—
 - (a) be published by Gazette and local advertisement, and
 - (a) be published in such other ways, if any, as seem appropriate to the Secretary of State.
 - (5) The information notice, or a copy of it, must also—

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- (a) be made available by the Secretary of State on an official website, and
 - (b) be kept available on the website throughout the period required to ensure the effective participation of the public in the environmental impact assessment for the project to which the notice relates.
- (6) Any charge imposed under sub-paragraph (3)(c) must be reasonable.
- (7) The date specified in accordance with sub-paragraph (3)(d) must be the date on which the notice first appears in a local newspaper.
- (8) If the Secretary of State directs a person to publish an information notice, the person must supply the Secretary of State with a copy of the notice—
- (a) as soon as possible, and
 - (b) in any event within the period of three working days (see paragraph 10(7)) starting with the date specified in accordance with sub-paragraph (3)(d).
- (9) The Secretary of State may specify the form in which, and means by which, a copy of an information notice is to be provided.]

Textual Amendments

F19 Sch. 3 para. 10A substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(14)** (with Sch. 6 paras. 2(2), 3(3))

- 11 If the order will authorise the compulsory acquisition of land the applicant shall, in respect to each parcel of land, serve a notice on [^{F20}every owner, lessee and occupier other than a tenant for a month or any period less than a month][^{F20}every owner, lessee, tenant (whatever the tenancy period) and occupier]—
- (a) stating that an application has been made to the Secretary of State for the making of an order which will authorise the compulsory acquisition of the parcel,
 - (b) naming a place where a copy of the draft order may be inspected at all reasonable hours,
 - (c) naming a place where a copy of any relevant map accompanying the application, drawn to the same scale and delineating the boundaries of the parcel, may be inspected at all reasonable hours, and
 - (d) stating that if the person on whom the notice is served wishes to object to the application so far as regards the compulsory acquisition of the parcel he should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.

Textual Amendments

F20 Words in Sch. 3 para. 11 substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 5** (with art. 1(3))

- 12 (1) If the order will result in the extinguishment or diversion of a public right of way over a footpath [^{F21}or bridleway][^{F21}, bridleway or restricted byway], the applicant shall—
- (a) serve a notice on every local authority for the area in which the footpath or bridleway is situated, and

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- (b) cause a copy of the notice to be displayed in a prominent position at each end of the part of the footpath or bridleway which would by virtue of the order cease to be subject to the public right of way.
- (2) The notice mentioned in sub-paragraph (1) must—
- (a) state that an application has been made to the Secretary of State for the making of an order which will result in the extinguishment or diversion of the public right of way over the footpath or bridleway,
 - (b) name a place where a copy of the draft order may be inspected at all reasonable hours,
 - (c) name a place where a copy of any relevant map accompanying the application, drawn to the same scale, may be inspected at all reasonable hours, and
 - (d) state that any person who desires to object to the application, so far as regards the extinguishment or diversion of the public right of way, should do so in writing to the Secretary of State, specifying the grounds of the objection, before the expiry of the period of 42 days starting with—
 - (i) in the case of a local authority served with a notice under paragraph 12(1)(a), the date on which the notice is served on them, or
 - (ii) in the case of any other person, the date specified in the notice displayed under paragraph 12(1)(b).
- (3) In this paragraph “local authority” means—
- (a) in England, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish council and a parish meeting of a parish not having a separate parish council,
 - (b) in Wales, a county council, a county borough council and a community council, and
 - (c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

Textual Amendments

F21 Words in Sch. 3 para. 12 substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

Modifications etc. (not altering text)

C1 Sch. 3 para. 12 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), 2(1), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

- 13 (1) If the applicant is not the harbour authority, the applicant shall serve on that authority a copy of the draft order and of any map accompanying the application together with a notice stating—
- (a) that the application has been made to the Secretary of State, and
 - (b) that if the authority wish to object to the application is should do so in writing to the Secretary of State, specifying the grounds of its objection, before the

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expiry of the period of 42 days starting with the date on which the notice is served on it.

- (2) The copy of the map referred to in sub-paragraph (1) must be drawn to the same scale as that map.
- 14 The Secretary of State may require the applicant to serve on any specified person within any specified period of time the documents required to be served under paragraph 13.]

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