

*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### SCHEDULE 1

Sections, 5, 7, 9, 12, 75 and 77.

#### PROCEDURES FOR MAKING OR CONFIRMING CERTAIN ORDERS AND SCHEMES

##### PART I

##### ORDERS

- 1 Where the Secretary of State proposes to make an order under section 5, 9, 12, 75 or 77 of this Act he shall publish in at least one newspaper circulating in the area in which any road to which the order relates is situated and in the Edinburgh Gazette a notice—
  - (a) stating the general effect of the proposed order;
  - (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected free of charge at all reasonable hours during a period specified in the notice, being not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within the said period, any person may by notice to the Secretary of State object to the making of the order.
- 2 Where an order under the said section 9 or 12 is submitted to the Secretary of State by a local roads authority, that authority shall publish in the manner specified in paragraph 1 above the notice there referred to, and that paragraph shall have effect in relation to a notice published by any such authority as if the references to the draft order and the making of the order were references to the order as submitted to the Secretary of State and the confirmation of the order respectively.
- 3 Not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, the Secretary of State or the local roads authority, as the case may be, shall serve on each person (other than himself or as the case may be themselves) specified in such head or heads of the Table set out at the end of this paragraph as apply in the case of the order in question—
  - (a) a copy of the notice;
  - (b) a copy of the draft order or, as the case may be, the order; and
  - (c) a copy of any relevant map or plan.

##### TABLE

*Persons to be served with copies of the documents specified in paragraph 3 of this schedule*

<i>Nature of order or proposed order</i>	<i>Persons to be served</i>
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- |       |   |  |
|-------|---|--|
| (i)   | Order proposed to be made under section 5, 12 or 75.  | The council of every region, islands area and district in which any road to which the proposed order applies is situated.  |
| (ii)  | Order proposed to be made under section 5, 9 or 12 which provides for the construction of a bridge over or a tunnel under navigable waters, and order under section 75. | Every navigation authority or water authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters.   |
| (iii) | Order proposed to be made under section 12 authorising the carrying out of new works.   | The council of every region, islands area and district on whose area works authorised by the proposed order are to be carried out.   |
| (iv)  | Order under section 9 transferring a road from one roads authority to another.  | The roads authorities to and from whom the road is to be transferred.  |
| (v)   | Order proposed to be made under section 77.   | The council of every region, islands area and district in which the bridge or its approaches is situated and every navigation authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters. |
| (vi)  | Order proposed to be made under section 9 or 12 which authorises the stopping up of a private means of access to land.  | The owner and the occupier of the land.  |
| (vii) | Order proposed to be made under section 9 or 12 which authorises the stopping up or diversion of a public road.   | The council of every region, islands area and district in which the road is situated, and any statutory undertakers having apparatus under, in,  |

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- |        |   |                                       |
|--------|---|---------------------------------------|
|        |   | upon, over, along or across the road. |
| (viii) | Order proposed to be made under section 9 which authorises entry by the special road authority on land. | The occupier of that land.            |
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- 4 Where the order provides for the stopping up or diversion of a public road, the Secretary of State shall, not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published, cause a copy of it to be displayed in a prominent position at the ends of so much of any road as is proposed to be stopped up or diverted under the order.
- 5 If before the expiration of the period specified in pursuance of paragraph 1(b) above an objection is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 above, or from any other person appearing to the Secretary of State to be affected, and the objection is not withdrawn, the Secretary of State shall, subject to paragraphs 6 and 19 below, cause a local inquiry to be held.
- 6 Except where the objection is made by any person on whom a copy of the notice is required to be served by virtue of paragraph 3 above as read with such one or more of heads (i) to (v) of the Table at the end of that paragraph as apply in the case of the order in question, the Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry under paragraph 5 above is not necessary, dispense with such an inquiry.
- 7 (1) Subject to paragraph 19 below, after considering objections (if any) to the proposed order or, as the case may be, the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.
- [<sup>F1</sup>(1A) Where the Secretary of State has published an environmental statement, the matters to be considered before an order is made under this paragraph include—
- (a) the statement;
  - (b) any opinion expressed by a member of the public; and
  - (c) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body.]
- (2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as he thinks fit) while deferring consideration of the remaining part.

#### Textual Amendments

**F1** Sch. 1 para. 7(1A) inserted by S.I. 1988/1221, reg. 73

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- 8 In this Part of this Schedule references to a proposed order or an order proposed to be made include references to an order made by a local roads authority and submitted to the Secretary of State.

## PART II

### SCHEMES UNDER SECTIONS 7 AND 75(3)

- 9 Where the Secretary of State proposes to make a scheme under section 7 or 75(3) of this Act, or where a scheme under either of those sections is submitted to the Secretary of State by a local roads authority, the Secretary of State or that authority, as the case may be, shall publish in at least one newspaper circulating in the area in which the road, or as the case may be the site of the bridge or tunnel, to which the scheme relates is situated and in the Edinburgh Gazette a notice—
- (a) stating the general effect of the proposed scheme;
  - (b) specifying a place in the said area where copies of a draft of the scheme, or of the scheme as submitted to the Secretary of State, as the case may be, and of any relevant map or plan may be inspected free of charge, at all reasonable hours during a period specified in the notice, being not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within the said period, any person may by notice to the Secretary of State object to the making or confirmation of the scheme.
- 10 Not later than the day on which the said notice is published or, if it is published on two more days, the day on which it is first published, the Secretary of State or the local roads authority, as the case may be, shall serve a copy of it (together with a copy of draft scheme or of the scheme, as the case may be, and of any relevant map of plan)—
- (a) on the council of every region, islands area and district in whose area any part of the route of the special road, or as the case may be the site of the bridge or tunnel, is situated; and
  - (b) where the scheme provides for the construction of a bridge over or tunnel under any navigable waters, on every navigation authority or water authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters.
- 11 If before the expiration of the period specified in pursuance of paragraph 9(b) above an objection is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 10 above or from any other person appearing to him affected by the proposed scheme, and the objection is not withdrawn, the Secretary of State shall, subject to paragraphs 12 and 19 below, cause a local inquiry to be held.
- 12 Except where the objection is made by any person on whom notice is required to be served under paragraph 10 above, the Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry under paragraph 11 above is unnecessary, dispense with such an inquiry.
- 13 (1) Subject to paragraph 19 below, after considering objections (if any) to the proposed scheme which are not withdrawn and, where a local inquiry is held, the report of the

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person who held the inquiry, the Secretary of State may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.

[<sup>F2</sup>(1A) Where the Secretary of State has published an environmental statement, the matters to be considered before a scheme is made include—

- (a) the statement;
- (b) any opinion expressed by a member of the public; and
- (c) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body.]

(2) The power under this paragraph to make or confirm the scheme includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Secretary of State thinks fit) while deferring consideration of the remaining part.

#### Textual Amendments

**F2** Sch. 1 para. 13(1A) inserted by S.I. 1988/1221, reg. 74

14 In this Part of this Schedule “proposed scheme” includes a scheme made by a local roads authority and submitted to the Secretary of State.

### [<sup>F3</sup>PART IIA

#### TOLL ORDERS UNDER SECTION 27 OF THE NEW ROADS AND STREET WORKS ACT 1991]

#### Textual Amendments

**F3** Sch. 1 Pt. IIA inserted(*prosp.*) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), ss. 168(1), 170(1), Sch. 8 para. 96(1)

#### Modifications etc. (not altering text)

**C1** Sch. 1 Pt. IIA applied(*prosp.*) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), ss. 27(3), 170(1) (with savings s. 47(4), 167(2)).

14A (1) Where the Secretary of State proposes to make a toll order under section 27 of the New Roads and Street Works Act 1991, he shall prepare a draft of the order and shall publish in at least one newspaper circulating in the area in which the proposed special road is to be situated, and in the Edinburgh Gazette, a notice—

- (a) stating the general effect of the proposed order;
- (b) naming a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
- (c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.

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- (2) Where a toll order is submitted to the Secretary of State by a local roads authority, the authority shall publish in at least one newspaper circulating in the area in which the proposed special road is to be situated, and in the Edinburgh Gazette, a notice—
- (a) stating the general effect of the order as submitted to the Secretary of State;
  - (b) naming a place in that area where a copy of the order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the confirmation of the order.
- (3) Where it is intended that the proposed toll order shall authorise the special road authority to assign their rights to charge and collect tolls, the Secretary of State or, as the case may be, the local roads authority shall make a statement containing such information as may be prescribed with respect to that assignation and the person to whom the rights are intended to be assigned and—
- (a) the statement shall be made available for inspection with the copy of the order to which the notice under subparagraph (1) or (2) relates; and
  - (b) the notice shall state that such a statement will be so available.
- (4) In sub-paragraph (3) “prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 14B The Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry is unnecessary, dispense with such an inquiry.
- 14C (1) Subject to paragraph 19 below, after considering objections (if any) to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.
- (2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Secretary of State thinks fit) while deferring consideration of the remaining part.
- 14D (1) A toll order shall be subject to special parliamentary procedure where—
- (a) the relevant special road scheme provides for the appropriation by or transfer to the special road authority of an existing public road comprised in the route prescribed by the scheme, and
  - (b) the toll order authorises the charging of tolls for the use of that existing road or any part of it,
- unless the Secretary of State is satisfied as regards all classes of traffic entitled to use the existing road that another reasonably convenient route free of toll is available, or will be provided before the date on which the appropriation or transfer takes effect, and certifies accordingly.
- (2) Where the Secretary of State proposes to give such a certificate, he shall—

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- (a) give public notice of his intention to do so,
  - (b) afford an opportunity to all persons interested to make representations and objections, and
  - (c) cause a public local inquiry to be held if it appears to him to be expedient to do so, having regard to representations or objections made,
- and before deciding whether to give the certificate he shall consider any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry.
- (3) As soon as may be after giving a certificate, the Secretary of State shall publish in the Edinburgh Gazette, and in such other manner as he thinks best for informing persons affected, a notice stating that the certificate has been given.
- 14E In this Part of this Schedule “proposed order” includes an order made by a local roads authority and submitted to the Secretary of State.

### PART III

#### GENERAL

- 15 Any person who objects to the making or confirmation of an order or scheme pursuant to this Schedule shall include in the notice of objection a statement of the grounds of objection; and the Secretary of State may disregard any such notice of objection which does not contain such a statement.
- 16 The Secretary of State may, by notice served on a person objecting to the making or confirmation of an order or scheme pursuant to this Schedule who submits that any road to which the order or scheme relates should follow an alternative route, require such person within such period as may be specified in the notice to give sufficient details of the alternative route to enable it to be identified and may disregard so much of the objection as consists of a submission to which the notice applies unless the person making the objection has complied with the notice.
- 17 Proceedings required to be taken for the purposes of an order under section 9 of this Act relating to a special road or for the purposes of an order under section 12 of this Act relating to a trunk road may be taken concurrently with proceedings required by this Schedule to be taken for the purposes of an order under section 5 of this Act or, as the case may be for the purposes of a scheme under section 7 of this Act, relating to that road.
- 18 Section 210(2) to (8) of the <sup>M1</sup>Local Government (Scotland) Act 1973 shall apply to any inquiry held under paragraph 5 or 11 above as it applies in relation to a local inquiry under that section, but without prejudice to paragraph 19 below.

#### Marginal Citations

M1 1973 c. 65.

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## PART IV

### APPLICATION OF STATUTORY ORDERS (SPECIAL PROCEDURE) ACT 1945

- 19 In relation to a scheme or order to which this Schedule applies which is subject to special parliamentary procedure—
- (a) the publication of a notice in accordance with paragraph 1 above shall be deemed to be sufficient compliance with the requirements of section 2(1) as read with section 10 of the Statutory Orders (Special Procedure) Act 1945 with regard to advertisement of notice;
  - (b) any inquiry required by paragraph 5 or 11 above shall, if the Secretary of State so directs, be held by commissioners under the <sup>M2</sup>Private Legislation (Procedure) (Scotland) Act 1936; and any directions so given shall be deemed to have been given under section 10 of the said Act of 1945; and
  - (c) where any such directions are given, paragraph 18 above shall not apply, and paragraphs 7 and 13 above shall have effect as if for references to a local inquiry and to the person who held the inquiry there were substituted, respectively, references to an inquiry by the commissioners and to the commissioners.

#### Marginal Citations

M2 1936 c. 52.



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