

*Status: Point in time view as at 11/01/2006.*

*Changes to legislation: New Roads and Street Works Act 1991, SCHEDULE 5 is up to date with all changes known to be in force on or before 05 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

### SCHEDULE 5

Sections 101(4) and 102(6).

#### PROCEDURE FOR MAKING CERTAIN ORDERS UNDER PART III

##### *Publication of proposals*

- 1 Where the Secretary of State proposes to make an order under section 101 (effect of Part III on certain existing special enactments or instruments), or an order under section 102 (effect of Part III on other existing enactments or instruments) relating to a special enactment or instrument, he shall publish in the London Gazette, and in at least one newspaper circulating in the area in relation to which the enactment or instrument in question has effect, a notice—
- (a) stating the general effect of the proposed order,
  - (b) specifying 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 or may be purchased by any person at a reasonable charge, and
  - (c) stating that any person may, by notice given to the Secretary of State within three months from the date of the publication of the notice, object to the proposed order.

##### *Notice to parties affected*

- 2 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, the Secretary of State shall furnish each of the parties specified below by reference to the nature of the order with a copy of the draft order.

Order under section 101(4)(a) relating to protection afforded by an enactment or instrument	The undertaker by whom the power is exercisable and each of the persons to whom the protection in question was afforded.
Order under section 101(4)(b) relating to requirement of consent	The person whose consent would be required and the undertaker who would be required to obtain the consent.
Order under section 101(4)(c) rendering condition valid	The person by whom the condition would be imposed and the undertaker who would be required to comply with it.
Order under section 101(4)(d) modifying enactment or instrument to remove uncertainty or obscurity	As indicated above, according to whether the order relates to the protection afforded by an enactment or instrument, a consent requirement or the validity of a condition.

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Order under section 102 amending, repealing or preserving effect of enactment or instrument	Any person whose interests are specially affected by the proposed provision.
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*Local inquiry*

- 3 (1) The Secretary of State shall cause a local inquiry to be held if an objection to the proposed order is received by him—
- (a) from a person required to be furnished with a copy of the draft order within three months from the date of his being furnished therewith, or
  - (b) from any other person appearing to him to be affected within three months from the day on which the notice of the proposed order is published, or if it is published on two or more days from the later or latest of them,
- and the objection is not withdrawn.
- (2) In the case of an objection made otherwise than by a person required to be furnished with a copy of the draft order, the Secretary of State may dispense with such an inquiry if he is satisfied that it is unnecessary.
- 4 (1) The provisions of section 250(2) to (5) of the <sup>M1</sup>Local Government Act 1972 (which relate to the giving of evidence at, and the defraying of costs of, inquiries) apply in relation to a local inquiry held under paragraph 3.
- (2) Subsection (4) of that section (which requires the costs of the department holding the inquiry to be defrayed by the parties thereto) shall not apply in so far as the Secretary of State is of the opinion, having regard to the object and result of the inquiry, that his costs should be defrayed by him.

**Marginal Citations**

**M1** 1972 c. 70.

*Making of order*

- 5 After considering any objections to 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 the order either without modification or subject to such modifications as he thinks fit.

*Special parliamentary procedure*

- 6 If any objection is duly made by a person required to be furnished with a copy of the draft order and is not withdrawn, the order shall be subject to special parliamentary procedure.

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