

*Status: Point in time view as at 09/02/2005.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Part II is up to date with all changes known to be in force on or before 15 July 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 16

#### PROCEDURE FOR MAKING AND CONFIRMING ORDERS RELATING TO ROADS AND RIGHTS OF WAY

##### PART II

##### CONFIRMATION OF ORDERS

###### *Application*

- 4 (1) This Part shall have effect with respect to the confirmation of orders under section 203, 206(1)(b), 207 and 208 and the publicity for such orders after they are confirmed.
- (2) This Part has no application as regards orders made by the Secretary of State.

###### *Confirmation of orders made by other authorities*

- 5 (1) An order made under section 203 by a competent authority, section 206(1)(b) by a local authority or section 207 or 208 by a planning authority shall not take effect unless confirmed—
- (a) by the Secretary of State in a case where the order is opposed, and
  - (b) in any other case by the authority making the order.
- (2) The Secretary of State shall not confirm any such order unless satisfied as to every matter of which the authority making the order are required under section 206(1)(b), 207 or 208 (as the case may be) to be satisfied.
- (3) The time specified—
- (a) in an order under section 203 as the time from which a right is to be extinguished,
  - (b) in an order under section 206(1)(b) as the time from which a right of way is to be extinguished,
  - (c) in an order under section 207 as the time from which a road is to be stopped up or diverted, or
  - (d) in an order under section 208 as the time from which a footpath or bridleway is to be stopped up or diverted,
- shall not be earlier than confirmation of the order.
- 6 (1) Before an order under section 203, 206(1)(b), 207 or 208 is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—
- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order,

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- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours, and
  - (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Subject to sub-paragraph (3), the notice to be given under sub-paragraph (1) shall be given—
- (a) by publication in the Edinburgh Gazette and in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and
  - (b) by serving a similar notice on—
    - (i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the <sup>M1</sup>Rent (Scotland) Act 1984) of any of that land,
    - (ii) every local authority whose area includes any of that land,
    - (iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land, and
    - (iv) any person named in the order by virtue of section 208(2)(d), and
  - (c) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up, diverted or extinguished by virtue of the order.
- (3) Except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i).
- (4) If he so directs in the case of any land, then in addition to publication—
- (a) the notice shall be addressed to “the owners and any occupiers” of the land (describing it), and
  - (b) a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

#### **Marginal Citations**

**M1** 1984 c. 58.

- 7 If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State themselves confirm the order (but without any modification).
- 8 (1) This paragraph applies where any representation or objection duly made is not withdrawn.
- (2) If the objection is made by a local authority, the Secretary of State shall, before confirming the order, cause a local inquiry to be held.
- (3) If the representation or objection is made by a person other than a local authority, the Secretary of State shall, before confirming the order, either—
- (a) cause a local inquiry to be held, or



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**Textual Amendments**

**F1** Words in **Sch. 16 para. 9(4)** substituted by **S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 127(24); S.I. 1998/3178, art. 3**

- 10 Regulations may, subject to this Part, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections 203, 206(1)(b), 207 and 208.

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