

SCHEDULES

SCHEDULE 7

ERNE DRAINAGE AND NAVIGATION

PART I

GENERAL PROVISIONS

Works schemes

5.—(1) The Ministry may prepare a scheme or schemes for the purposes of the carrying out of works which the Ministry considers necessary—

- (a) for giving effect to any of the provisions of the principal agreement;
- (b) for reducing the flooding of land around the Loughs.

(2) A scheme prepared under this paragraph shall contain such particulars with regard to such matters and shall be in such form as the Ministry may consider fit and, in particular, and without prejudice to the generality of the foregoing provisions, shall contain such provisions as the Ministry may consider necessary for the implementation of^{F1} Article 40(2) of the Water (Northern Ireland) Order 1999] and for the protection of rights or interests affected by the scheme.

(3) The authorised officers, agents and servants of the Ministry may, at all reasonable times, on production (if so required) of their authority, enter on any land and do there all such things as may appear to them to be reasonably necessary or expedient for the purposes of the preparation of a scheme.

(4) Every reference in this Schedule to a scheme shall be construed as including every map, drawing, plan, section and schedule annexed to such scheme.

F1 1999 NI 6

6.—(1) After the preparation of a scheme, the Ministry shall—

- (a) send a copy of the scheme to such district councils as the Ministry may consider appropriate;
- (b) publish in the Belfast Gazette and such one or more newspapers as it shall consider appropriate a notice stating that the scheme has been prepared and also stating the place or places and times at which, and the period, not being less than twenty-eight days, during which, a copy of the scheme will be available for inspection;
- (c) serve on every person appearing to the Ministry to be the owner, lessee or occupier of any land proposed in the scheme to be acquired or otherwise directly interfered with, a copy of the public notice, together with a statement that the scheme proposes the acquisition of, or interference with, such land; and

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(d) serve on any person appearing to the Ministry to be an owner or lessee of any fishery proposed in the scheme to be interfered with a copy of the public notice, together with a statement informing that person of the proposed interference.

(2) Every notice published under this paragraph shall contain or be accompanied by a statement to the effect that any person who considers that his interests will be prejudicially affected by the scheme may, in the manner and within the time, not being less than twenty-eight days, specified in the statement or notice, send to the Ministry any observations in regard to the scheme which he wishes to make.

(3) A district council to which a copy of a scheme is sent by the Ministry in pursuance of this paragraph—

- (a) shall cause such copy to be exhibited in its principal offices or other convenient place during the period required to be specified in that behalf under sub-paragraph (2) with respect to the scheme, and shall permit such copy to be inspected during normal office hours by any person claiming to be interested therein;
- (b) shall examine and consider the scheme; and
- (c) may, at any time within twenty-eight days after the date of the publication in the Belfast Gazette pursuant to sub-paragraph (2) of the notice relating to such scheme, send to the Ministry any observations in regard to the scheme which it wishes to make.

7. After the expiration of twenty-eight days from the service of notices in pursuance of paragraph 6, the Ministry may, after considering any observations sent to it under that paragraph and after holding such inquiry (if any) as the Ministry considers necessary, by order confirm the scheme in whole or in part, and either without modifications or with such modifications (which may include variations, additions or exceptions) as the Ministry considers fit (and such scheme or part thereof as so confirmed is in this Schedule referred to as a “confirmed scheme”).

8. For the purposes of this Schedule, the provisions of this Order specified in Part II of this Schedule shall, with the modifications thereof specified in Part III of this Schedule, apply in relation to the Loughs and such portion of the River Erne as is in Northern Ireland in like manner as those provisions apply in relation to any other watercourse to which this Order applies, and those provisions, as so modified, shall have effect as if they were provisions of this Schedule.

9.—(1) Where, in carrying out works under this Schedule—

- (a) any road, bridge, culvert or embankment has been improved as a means of communication or otherwise in consequence of the carrying out of those works, such proportion of the cost of such works as ought fairly to be borne by the authority liable to maintain such road, bridge, culvert or embankment, or any portion thereof, shall be borne by that authority;
- (b) any extra expenses are incurred by the Ministry by reason of the carrying out of additional works at the request or requirement of any authority pursuant to the principal agreement, such extra expenses shall be borne by the authority at whose request or requirement the additional works were carried out.

(2) Any dispute between the Ministry and an authority as to the amounts which, under the foregoing provisions of this paragraph, fall to be borne by that authority shall be referred to arbitration^{F2}. . . .

(3) For the purposes of this paragraph, “authority” means any person entitled or liable to maintain any road, bridge, culvert or embankment, or any part thereof, whether under any public general, local or private statutory provision or under any order of court, scheme, deed or other instrument, or otherwise, and the provisions of any such statutory provision shall have effect subject to the foregoing provisions of this paragraph.

F2 1996 c.23

10.—(1) Where, in pursuance of the provisions of the principal agreement, such works have been carried out as will, in the opinion of the Ministry, enable the water levels of the Loughs and River Erne to be controlled and regulated in accordance with those provisions, the Ministry shall, by order made after consultation with the Board, prescribe the date on and from which those water levels shall be so controlled and regulated.

(2) For the purposes of this Schedule, the date of completion of any works carried out under any confirmed scheme shall be such date as may be certified by an order made by the Ministry in that behalf.

(3) Notice of the making of any order under this paragraph shall be published in the Belfast Gazette and any such one or more newspapers as the Ministry may consider appropriate.

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Changes to legislation:

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