

SCHEDULES

SCHEDULE 1

Articles 12(4), 14(4), 15(7), 16(2), 29(5).

ACCESS ORDERS AND PUBLIC PATH ORDERS

Making and confirmation

1.—(1) Before an order to which this Schedule applies is submitted to the Department for confirmation or (except in the case of an access order) is confirmed as an unopposed order, the district council 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,
- (b) naming a place in the district in which the land to which the order relates is situated where a copy of the order may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and
- (c) specifying the time (which shall not be 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) Before the Department makes a public path extinguishment order or a public path diversion order, the Department shall prepare a draft of the order and shall give notice—

- (a) stating that the Department proposes to make the order and the general effect of it,
- (b) naming a place in the district in which the land to which the order relates is situated where a copy of the draft order may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and
- (c) specifying the time (which shall not be 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 draft order may be made.

(3) The notices to be given under sub-paragraph (1) or (2) shall be given—

- (a) by publication in at least one local newspaper circulating in the locality in which the land to which the order relates is situated;
- (b) by serving a like notice on—
 - (i) every owner, lessee and occupier of any of that land (subject to the provisions of sub-paragraph (4));
 - (ii) every district council whose district includes any of that land;
 - (iii) such other bodies as may be prescribed or as the district council or, as the case may be, the Department may consider appropriate; and
- (c) by causing a copy of the notice to be displayed in a prominent position—
 - (i) at the ends of so much of the public path as is created, extinguished or diverted by the order;
 - (ii) at the council offices in the locality in which the land to which the order relates is situated; and

Changes to legislation: There are currently no known outstanding effects for the The Access to the Countryside (Northern Ireland) Order 1983. (See end of Document for details)

(iii) at such other places as the district council or, as the case may be, the Department may consider appropriate.

(4) If, after reasonable inquiry has been made, it appears that it is not practicable to ascertain the name or address of an owner, lessee or occupier of any land to which an order relates, the notice required to be served on him by sub-paragraphs (3) (b) (i) may be served by addressing the notice to “The owners and any occupiers” of the land (describing it) and affixing a copy or copies of the notice to some conspicuous object or objects on the land.

2.—(1) If no representations or objections are duly made, or if any so made are withdrawn then—

- (a) the Department may, if it thinks fit, confirm or make the order, as the case may be, with or without modifications;
- (b) the district council may, except in the case of an access order, instead of submitting the order to the Department, confirm the order without any modification.

(2) If any representation or objection duly made is not withdrawn, the Department shall, before confirming or making the order,—

- (a) cause a local inquiry to be held; or
- (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Department for that purpose,

and after considering the report of the person appointed to hold the inquiry or to hear representations or objections, the Department may confirm or make the order, as the case may be, with or without modifications.

(3) Notwithstanding anything in sub-paragraph (1) or (2), the Department shall not confirm or make an order so as to affect land not affected by the order as submitted or the draft order except after—

- (a) giving such notice as appears to the Department to be requisite of its proposal to modify the order, specifying the time (which shall not be 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 proposal may be made,
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Department for the purpose, and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be.

3. The Department may, subject to paragraphs 1 and 2, by regulations make such provision as to the procedure on the making, submission and confirmation of orders to which this Schedule applies as appears to the Department expedient.

Validity and date of operation

4.—(1) As soon as may be after an order to which this Schedule applies has been confirmed or made by the Department, or confirmed by the district council as an unopposed order, the Department or the district council, as the case may be, shall publish, in the manner required in relation to the class of order in question by paragraph 1, a notice in the prescribed form describing the general effect of the order, stating that it has been confirmed or made, and naming a place where a copy of the order as confirmed or made may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and—

- (a) shall serve a like notice on any persons on whom notices were required to be served under paragraph 1 (3) (b) or (4); and
- (b) shall cause like notices to be displayed in the like manner as the notices required to be displayed under paragraph 1 (3) (c);

but no such notice need be served on a person unless he has sent to the district council or the Department (according as the notice would require to be served by the district council or by the Department) a request in that behalf specifying an address for service.

(2) A notice required to be served by sub-paragraph (1) (a), other than one required to be served by paragraph 1 (3) (b) (iii), shall be accompanied by a copy of the order as confirmed or made.

(3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the district council shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served by paragraph 1 (3) (b) or (4).

5.—(1) If a person aggrieved by an order to which this Schedule applies desires to question the validity of the order, or of any provision contained in the order, on the ground that it is not within the powers of this Order or on the ground that any requirement of this Order or of regulations made under this Order has not been complied with in relation to the order, he may, within six weeks from the date on which the notice required by paragraph 4 is first published, make an application for the purpose to the county court.

(2) On any such application the court—

- (a) may by interim order suspend the operation of the order, or of any provision contained in the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied—
 - (i) that the order or any provision contained in the order is not within the powers of this Order, or
 - (ii) that the interests of the applicant have been substantially prejudiced by failure to comply with any requirement of this Order or of regulations made under this Order,may quash the order or any provision contained in the order, either generally or in so far as it affects any property of the applicant.

6. Subject to paragraph 5, an order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever and shall become operative on the date on which the notice required by paragraph 4 is first published, or on such later date as may be specified in the order.

Variation and revocation

7.—(1) In relation to an order to which this Schedule applies, section 17(2) of the Interpretation Act (Northern Ireland) 1954 shall have effect subject to sub-paragraphs (2) and (3).

(2) Except in the case of an access order, an order to which this Schedule applies confirmed by the Department or confirmed as an unopposed order by the district council may, in either case, be revoked or varied by a subsequent order confirmed the other way.

(3) Without prejudice to the making of a new access order, an access order shall not be varied so as to comprise land not comprised in the original order.

SCHEDULE 2

Article 26 (4).

GENERAL RESTRICTIONS ON ACCESS TO OPEN COUNTRY UNDER PART III

Article 26 (1) shall not apply to a person who, upon the land in question without lawful authority—

- (a) drives or rides any vehicle;
- (b) lights any fire or does any act which is likely to cause a fire;
- (c) takes, or allows to enter or remain, any dog not under proper control;
- (d) wilfully kills, takes or molests any animal, bird or fish or takes or injures any eggs or nests;
- (e) engages in any operation of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for any such purpose;
- (f) wilfully damages or interferes with the land or anything in or on the land;
- (g) breaks through any hedge, fence or wall or neglects to shut any gate or to fasten it if any means of so doing is provided;
- (h) affixes or writes any advertisement, bill, placard or notice;
- (i) deposits any rubbish or leaves any litter;
- (j) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation.

SCHEDULE 3

Article 26 (5).

EXCEPTED LAND

1. Land used for agriculture (other than land used for open hill and unenclosed rough grazing for livestock) being land which was so used at the date when the relevant access agreement or order was made.

2. Land comprised in a declaration under^[F1] Article 16 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985] (declaration of land as nature reserve) in so far as that land is subject to bye-laws prohibiting the entry of persons.

F1 [1985 NI 1](#)

3. Land covered by buildings or the curtilage of such land.

4. Land used for the purposes of a park, garden or pleasure ground, being land which was so used at the date when the relevant access agreement or order was made.

5. Land used for the getting of minerals by surface working (including quarrying), land used for the purposes of a railway (including a light railway), or land used for the purposes of a golf course, sports ground, playing field or aerodrome.

6. Land (not falling within paragraphs 1 to 5) covered by works used for the purposes of a statutory undertaking or the curtilage of such land.

7. Land excepted from the application of Article 26 in accordance with Article 30 (provisions as to land used for agricultural purposes, etc.).

8. Land as respects which development is in course being carried out which will result in the land becoming such land as is specified in paragraphs 3, 5 and 6.

SCHEDULE 4

Article 28 (2).

PROVISIONS AS TO THE CALCULATION FOR FIXING CONSIDERATION IN RESPECT OF THE MAKING OF ACCESS AGREEMENTS

1. The district valuer shall value the land covered by the access agreement, as at the first day of the twelve month period to which the consideration will relate, assuming—
 - (a) a sale on the open market by a willing seller; and
 - (b) that the use of the land is unfettered by the access agreement.
2. The district council shall, before or as soon as possible after the coming into operation of the access agreement, agree with the owner of the interest in the land what proportion of the figure set by the district valuer should be paid by the district council in respect of each twelve month period.
3. The first twelve month period shall begin on the day on which the public is first given access to the land under the agreement.

SCHEDULE 5

Article 56.

MATTERS REQUIRED TO BE REGISTERED IN STATUTORY CHARGES REGISTER

In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (matters required to be registered in the Statutory Charges Register), after paragraph 37A add the following paragraph—

- “**38.** Any of the following matters under the Access to the Countryside (Northern Ireland) Order 1983—
- (a) a public path creation agreement, a public path creation order, a public path extinguishment order, or a public path diversion order;
 - (b) an access agreement, an access order, or an instrument or order varying or revoking an access agreement or order.”.

Changes to legislation:

There are currently no known outstanding effects for the The Access to the Countryside (Northern Ireland) Order 1983.