

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision as regards entry to land by the Scottish Ministers, where they are considering publishing under section 6 of the Transport and Works (Scotland) Act 2007 a notice of a proposal to make an order under section 1 of that Act, to inspect and survey land for purposes connected with construction, operation or works to which such an order would relate. An order under section 1 of that Act relates to the authorisation of transport systems and inland waterways. This Order prescribes the procedure for the making and consideration of representations in relation to a proposal for entry and the procedure for enforcing access where, subsequent to a determination to take entry, access is prevented.

Article 3 provides that, if they so determine, the Scottish Ministers may enter land for such purposes as may be specified in the determination.

Article 4 provides the pre-conditions that the Scottish Ministers have to fulfil before proceeding to seek entry to land pursuant to this Order.

Article 5 (with the Schedule) provides for the service by the Scottish Ministers of notice, on specific persons, of the proposal to enter the land pursuant to this Order and for a newspaper notice.

Article 6 makes provision relating to representations including the validity of representations.

Article 7 makes provision in relation to any hearing held to consider representations on any proposal to enter land pursuant to this Order.

Article 8 sets out provision regarding the Scottish Ministers determination on their proposal to enter land, the noticing arrangements and in the case of a determination to enter land provision as to the date on which that determination shall have effect.

Article 9 sets out the procedures for an appeal to the Sheriff by any person aggrieved by a determination to enter land.

Article 10 sets out the circumstances where compensation can be recovered from the Scottish Ministers. It also prescribes that any dispute shall be referred to and determined by the Lands Tribunal for Scotland.

Article 11 provides the circumstances in which the sheriff may grant a warrant and article 12 sets out the offence that a person commits in wilfully obstructing entry which has been authorised by virtue of a warrant.

A Regulatory Impact Assessment has been prepared in respect of this Order. A copy can be obtained from the Scottish Government Transport Directorate, Victoria Quay, Edinburgh EH6 6QQ.