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SCHEDULES

SCHEDULE 3 **E+W+S**

PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

Modifications etc. (not altering text)

- C1** Sch. 3 amended by [Post Office Act 1969](#) (c. 48, SIF 96), s. 76, **Sch. 4 para. 93(1)(xxii)(2)(K)**, S.I. 1970/1681, Sch. 3 para. 11(3) and 1974/691, art. 2; extended by [Civil Aviation Act 1982](#) (c. 16, SIF 9), **Sch. 2 para. 4**
- C1** Functions of Minister of Agriculture, Fisheries and Food under Sch. 3 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: (except para. 6) S.I. 1978/272, art. 2, Sch. 1; (para. 6) S.I. 1969/388, art. 3, **Sch. 2 para. 5(x)** and 1978/272, art. 2, Sch. 1
- C1** Sch. 3 extended by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xiv), **Sch. 8 para. 33** and by [Electricity Act 1989](#) (c. 29, SIF 44:1), ss. 112(1)(3), Sch. 16 para. 1(1)(xiv), **Sch. 17 para. 33**
- C1** Sch. 3 modified by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(10)(b)**, Sch. 8 para. 33, and by [Electricity Act 1989](#) (c. 29, SIF 44:1), ss. 112(1)(3), Sch. 16 para. 3(2)(c), **Sch. 17 para. 33**
- C1** Sch. 3 extended (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 25 para. 1(2)** (xi), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
Sch. 3 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xii)**; S.I. 1996/218, **art. 2**
Sch. 3 modified (1.3.1996) by 1995 c. 45 s. 16(1), Sch. 4 para. 2(11)(b); S.I. 1996/218, **art. 2**
- C1** Sch. 3 modified (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(10)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
Sch. 3: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

PART I **E+W+S**

PROCEDURE FOR MAKING HARBOUR REVISION ORDERS ON APPLICATION TO ^{F1}THE SECRETARY OF STATE](AS SET OUT, . . . ^{F2}, AND FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY ^{F1}THE SECRETARY OF STATE] (SUBJECT TO PART VII), . . . ^{F2}.

Textual Amendments

- F1** Words substituted by [Transport Act 1981](#) (c. 56, SIF 58), **Sch. 5 para. 14(2)**
- F2** Words repealed by [Transport Act 1981](#) (c. 56, SIF 58), **Sch. 12 Pt. II**

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VALID FROM 21/08/1996

[^{F3}A1 In this Part of this Schedule “the Directive” means Council Directive No.85/337/EEC on the assessment of the effects of certain public and private projects on the environment; and “project” has the meaning given by article 1 of the Directive.]

Textual Amendments

F3 Paras. A1 and A2 inserted (21.8.1996) by S.I. 1996/1946, reg. 2(1)(2)

VALID FROM 21/08/1996

- ^{F4}A2 (1) A person may not make an application for a harbour revision order which, directly or indirectly, authorises any project unless—
- (a) he has given the Secretary of State prior notice of his intention to make the application, and
 - (b) the Secretary of State has responded under sub-paragraph (3) or, as the case may be, (4) below.
- (2) Sub-paragraph (3) below applies where it appears to the Secretary of State that a proposed application of which he is notified under sub-paragraph (1)(a) above relates to—
- (a) a project which falls within Annex I to the Directive, or
 - (b) a project which falls within Annex II to the Directive the characteristics of which require that it should be made subject to an environmental assessment.
- (3) The Secretary of State shall direct the proposed applicant to supply him in such form as he may specify with the information referred to in Annex III to the Directive to the extent—
- (a) that it is relevant to any stage of the procedure set out in this Part and to the specific characteristics of the project to which the proposed application relates and of the environmental features likely to be affected by it; and
 - (b) that (having regard in particular to current knowledge and methods of assessment) the proposed applicant may reasonably be required to gather that information, and including at least—
 - (i) a description of the project comprising information on the site, design and size of the project;
 - (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
 - (iii) the data required to identify and assess the main effects which the project is likely to have on the environment; and
 - (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.

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- (4) Where sub-paragraph (3) above does not apply in relation to a proposed application of which the Secretary of State is notified under sub-paragraph (1)(a) above, he shall forthwith notify the proposed applicant accordingly.

Textual Amendments

F4 Paras. A1 and A2 inserted (21.8.1996) by S.I. 1996/1946, reg. 2(1)(2)

1 An application for a harbour revision order must be accompanied by not less than six copies of a draft of the proposed order and not less than six copies of any map or maps which, if the order is made in the form of the draft, will be required to be annexed to it.

[^{F5}1A (1) Where an application for a harbour revision order relating to a harbour in England or Wales is made after the coming into force of this paragraph, the Secretary of State shall determine whether or not it is made in relation to a project which falls within Annex I or Annex II to Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that it is made in relation to a project which falls within Annex I, or a project which falls within Annex II and whose characteristics require that it should be made subject to an environmental assessment, he shall direct the applicant to supply him in such form as he may specify with the information referred to in Annex III to the Directive to the extent that he considers—

- (a) that it is relevant to any stage of the procedure set out in this Part and to the specific characteristics of the project to which the application relates and of the environmental features likely to be affected by it; and
- (b) that (having regard in particular to current knowledge and methods of assessment) the applicant may reasonably be required to gather that information,

and including at least—

- (i) a description of the project comprising information on the site, design and size of the project;
- (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (iii) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.]

Textual Amendments

F5 Sch. 3 para. 1A inserted (E.W.) by S.I. 1988/1336, reg. 4

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VALID FROM 15/07/1992

[^{F6}1B Such fees as may be determined by the Secretary of State shall be payable on the making of an application for a harbour revision order.]

Textual Amendments

F6 Sch. 3 para. 1B inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), **Sch. 3 para. 10(2)**; S.I. 1992/1347, **art. 2**, Sch. (subject as mentioned in art. 3)

^{F7}

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Textual Amendments

F7 Sch. 3 Pt. I paras. 2, 4(2) repealed by Transport Act 1981 (c. 56, SIF 58), **Sch. 12 Pt. II**

3 [^{F8}Where an application for a harbour revision order has been duly made to the Secretary of State], compliance [^{F9}with the requirements of paragraph 1A above if they are applicable,] with the requirement of sub-paragraph (a) below and with such of the requirements of sub-paragraphs (b) to (d) below as are applicable in the circumstances shall be a condition precedent to the taking by [^{F10}the Secretary of State] of [^{F11}any steps (otherwise than under this paragraph)] in the matter of the application, that is to say:—

- (a) there must be published by the applicant by Gazette and local advertisement and (if so required by [^{F10}the Secretary of State]) by such other means as [^{F10}the Secretary of State] may specify, a notice stating that application has been made to him for the making of the order [^{F12}and whether information has been supplied under paragraph 1A above and], containing a concise summary of the proposed order and (if provision is proposed to be included therein authorising the execution of works or the compulsory acquisition of land) a general description of the nature of the works and the land on which their execution is proposed to be authorised or, as the case may be, of the land whose compulsory acquisition is proposed to be authorised, naming a place where a copy of the draft of the proposed order [^{F13}, a copy of any information supplied under paragraph 1A above] and (if the application for the order was accompanied by copies of a map or maps) a copy of that map or, as the case may be, copies of those maps may be seen at all reasonable hours and stating that any person who desires to make to [^{F10}the Secretary of State] objection to the application should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date (specifying it) of the first local advertisement;
- (b) if provision is proposed to be included in the order authorising the compulsory acquisition of land, there must, in the case of each parcel of land whose compulsory acquisition is proposed to be authorised, be served

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- by the applicant on every owner, lessee and occupier (except a tenant for a month or any period less than a month) of that parcel a notice stating that application has been made to [^{F10}the Secretary of State] for the making of the order with the inclusion therein of provision authorising the compulsory acquisition of that parcel (describing it), naming a place where a copy of the draft of the proposed order and a copy (on the like scale) of the map that accompanied the application therefor on which the boundaries of that parcel are delineated may be seen at all reasonable hours and stating that, if the person served desires to make to [^{F10}the Secretary of State] objection to the application so far as regards the inclusion in the order of provision authorising the compulsory acquisition of that parcel, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him;
- (c) if the applicant is not the harbour authority, there must be served by the applicant on that authority a copy of the draft order together (if the application for the order was accompanied by copies of a map or maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to [^{F10}the Secretary of State] for the making of the order and that, if the authority desire to make to [^{F10}the Secretary of State] objection to the application, they should do so in writing (stating the grounds of their objection) before the expiration of the period of forty-two days from the date on which the notice is served on them;
- (d) if [^{F10}the Secretary of State] so requires, there must, on any person specified by him, [^{F14}and within such time as may be so specified, be] served by the applicant the like documents as are required to be served in compliance with sub-paragraph (c) above where it applies.

Textual Amendments

- F8** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 12\(a\)](#)
F9 Words inserted (E.W.) by [S.I. 1988/1336](#), [reg. 5\(a\)](#)
F10 Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)
F11 Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 12\(b\)](#)
F12 Words inserted (E.W.) by [S.I. 1988/1336](#), [reg. 5\(b\)\(i\)](#)
F13 Words inserted (E.W.) by [S.I. 1988/1336](#), [reg. 5\(b\)\(ii\)](#)
F14 Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 12\(c\)](#)

Modifications etc. (not altering text)

- C1** [Sch. 3 para. 3](#) excluded by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(3), [Sch. 1 para. 3\(b\)](#)

[^{F15}3A It shall be the duty of the Secretary of State to furnish such bodies appearing to him to have environmental responsibilities as he thinks fit with any information supplied under paragraph 1A above and to consult such bodies.]

Textual Amendments

- F15** [Sch. 3 para. 3A](#) inserted (E.W.) by [S.I. 1988/1336](#), [reg. 6](#)

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- 4 (1) Where the proper notices concerning an application for the making of a harbour revision order have been published under paragraph 3 above, and all persons required thereunder to be served in the case of the application with notices and other documents have been properly served therewith, and the time for the due making to [F16the Secretary of State] of objection to the application has elapsed, the following provisions of this paragraph shall have effect.
 - (2) F17
 - (3) If objections to the application were duly made to [F16the Secretary of State] and have not been withdrawn, [F16the Secretary of State], unless he decides that the application shall not proceed further,—
 - (a) in the case of an objection so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of a parcel of land, shall either cause an inquiry to be held with respect to the objection or afford to the objector an opportunity of appearing before and being heard by a person appointed by [F16the Secretary of State] for the purpose;
 - (b) in the case of any other objection, shall cause an inquiry to be held with respect thereto, unless he is of opinion that it is frivolous or too trivial to warrant the holding of an inquiry with respect to it,
 - F18
 - (4) Where an objector to the application avails himself of an opportunity of being heard afforded to him in pursuance of sub-paragraph (3)(a) above, [F16the Secretary of State] shall afford to the applicant, and to any other persons to whom it appears to [F16the Secretary of State] expedient to afford it, an opportunity of being heard on the same occasion.
 - (5) [F19After considering the objections (if any) made and not withdrawn [F20any information supplied under paragraph 1A above], and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector, the Secretary of State] unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.
 - (6) Where [F16the Secretary of State] proposes to make the order applied for with modifications which appear to him substantially to affect the character of the order as applied for, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing the applicant and other persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modifications by the applicant and those other persons as he thinks reasonable has elapsed; nor shall he, unless all persons interested consent, so make the order as to authorise the compulsory acquisition of any land that was not described in the draft submitted to him as being land subject to be acquired compulsorily.
 - (7) [F16the Secretary of State] may disregard for the purposes of this paragraph an objection to the application unless it states the grounds on which it is made, and may disregard for those purposes such an objection so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of land if he is satisfied that the objection relates exclusively to matters which can be dealt with

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by the tribunal by whom compensation in respect of the acquisition will fall to be assessed in default of agreement.

Textual Amendments

- F16** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)
F17 [Sch. 3 Pt. I paras. 2, 4\(2\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
F18 Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
F19 Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(4\)](#)
F20 Words inserted (E.W.) by [S.I. 1988/1336](#), [reg. 7](#)

Modifications etc. (not altering text)

- C2** [Sch. 3 para. 4](#) excluded by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(3), [Sch. 1 para. 3\(b\)](#)

[^{F21}4ZA In any case where the Secretary of State has determined as mentioned in paragraph 1A(2) above, he shall publish in such manner as he thinks fit his decision whether or not to make an order.]

Textual Amendments

- F21** [Sch. 3 para. 4ZA](#) inserted (E.W.) after paragraph 4 by [S.I. 1988/1336](#), [reg. 8](#)

[^{F22}4A (1) The provisions of this paragraph have effect where the Secretary of State makes—

- (a) a harbour revision order relating to a harbour in England or Wales; or
- (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales,

and, in either case, the order is opposed.

(2) For the purposes of this paragraph an order is opposed if—

- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 4 above or which in his opinion is frivolous or trivial; or
- (b) a comment in writing on proposed modifications to the order applied for has been duly made to the Secretary of State and not withdrawn, which in his opinion would if duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;

and references in this paragraph to a person opposing the order shall be construed accordingly.

(3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.

(4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition

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to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.]

Textual Amendments

F22 Paras. 4A, 4B inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 4\(2\)\(8\)](#) except as to a harbour revision or empowerment order in relation to which the notices required by para. 3(a) or 7(a) of Sch. 3 to this Act have been published before 1.10.1981

Modifications etc. (not altering text)

C3 [Sch. 3 para. 4A\(2\)](#) modified by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(3), [Sch. 1 para. 3\(b\)](#)

4B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or to works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.

5 So soon as may be after a harbour revision order has been made, the applicant for it—

- (a) shall publish by Gazette and local advertisement a notice stating that the order has been made and naming a place where a copy thereof (and, if a map or maps is or are annexed to the order, a copy of that map or, as the case may be, copies of those maps) may be inspected at all reasonable hours [^{F23}and further stating, in the case of an order to which paragraph 4B above does not apply, whether the order is affected by the provisions of paragraph 4A above and, where it is not so affected, the date on which it came or will come into operation;]
- (b) shall, if not the harbour authority, serve on that authority a copy of the order, together (if a map or maps is or are annexed to it) with a copy of that map or, as the case may be, copies of those maps;
- (c) shall serve a copy of the order, together (if a map or maps is or are annexed to it) with a copy of that map or, as the case may be, copies of those maps, on each person on whom, in compliance with a requirement imposed by virtue of paragraph 3(d) above, a copy of the draft of the order as submitted to [^{F24}the Secretary of State] was served.

Textual Amendments

F23 Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 4\(3\)\(8\)](#) except as to a harbour revision or empowerment order in relation to which the notices required by para. 3(a) or 7(a) of Sch. 3 to this Act have been published before 1.10.1981

F24 Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

Modifications etc. (not altering text)

C4 [Sch. 3 para. 5\(c\)](#) excluded by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(3), [Sch. 1 para. 3\(b\)](#)

[^{F25}5A —Where an order is affected by the provisions of paragraph 4A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred

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to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement a notice stating that the order is not so subject and indicating the date on which it came or will come into operation.]

Textual Amendments

F25 Para. 5A inserted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 4(4)(8) except as to a harbour revision or empowerment order in relation to which the notices required by para. 3(a) or 7(a) of Sch. 3 to this Act have been published before 1.10.1981

- 6 (1) Where application is made to [^{F26}the Secretary of State] for a harbour revision order which includes provision authorising the compulsory acquisition of land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the period of forty-two days from the date of the first local advertisement of notice that the application has been so made that Minister is satisfied—
- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
 - (b) that an interest in any of the said land is held for those purposes,
- the order shall not be so made as to authorise the acquisition of any land as to which that Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—
- (i) that, without serious detriment to the carrying on of the undertaking, it can be acquired and not replaced, or
 - (ii) that, if acquired, it can, without such detriment as aforesaid, be replaced by other land belonging to, or available for acquisition by, the undertakers,
- and certifies accordingly.
- (2) In this paragraph the following expressions have the meanings hereby assigned to them respectively, that is to say:—
- “statutory undertakers” means any person authorised by an Act (whether public, general or local) or by any order or scheme made under or confirmed by an Act to carry on any such undertaking as follows, that is to say,—
- (a) a railway, light railway, tramway or road transport undertaking;
 - (b) an undertaking the activities whereof consist in—
 - (i) the maintenance of a canal;
 - (ii) the conservation or improvement of a river or other inland navigation;
 - (iii) the improvement, maintenance or management of a harbour (whether natural or artificial), port, haven or estuary, a dock (whether used by sea-going ships or not) or a wharf, quay, pier, jetty or other place at which ships (whether sea-going or not) can ship or unship goods or embark or disembark passengers; or
 - (iv) the provision and maintenance of a lighthouse; or
 - (c) an undertaking for the supply of . . . ^{F27}, . . . ^{F28}, [^{F29}hydraulic power or water][^{F29} or hydraulic power];

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Textual Amendments

- F26** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(2)**
- F27** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F28** Word repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(4), **Sch. 9 Pt. I**
- F29** Words “or hydraulic power” substituted (E.W.) for “hydraulic power or water” by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 31(3), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F30** Definition of “the appropriate Minister” repealed by S.I. 1970/1681, art 5(3), **Sch. 4**

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