

Status: Point in time view as at 26/12/2023.

Changes to legislation: Harbours Act 1964, SCHEDULE 4 is up to date with all changes known to be in force on or before 26 June 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 4

Sections 18 and 47.

[^{F1}PROCEDURE FOR CONFIRMING AND MAKING HARBOUR REORGANISATION SCHEMES]

Textual Amendments

F1 Heading substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(6\)](#)

Modifications etc. (not altering text)

C1 [Sch. 4](#) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 42\(2\)](#)

C2 [Sch. 4](#): transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 29\(2\)\(b\)\(iii\)](#), [71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))

PART I

PROCEDURE FOR SUBMISSION AND CONFIRMATION OF HARBOUR REORGANISATION SCHEMES

- 1 The submission to the Minister of a harbour reorganisation scheme shall be effected by depositing with him [^{F2}not less than six copies][^{F2}a copy] of the scheme together with [^{F2}not less than six copies][^{F2}a copy] of any map or maps which, if the scheme is confirmed in the form submitted, will be required to be annexed to it.

Textual Amendments

F2 Words in [Sch. 4 para. 1](#) substituted (S.) (3.12.2015) by [Harbours \(Scotland\) Act 2015 \(asp 13\)](#), [ss. 2\(3\), 3](#)

- 2 Where a harbour reorganisation scheme is submitted to the Minister he shall take it into consideration and, if he decides that it should proceed,—
- (a) he shall publish by Gazette and local advertisement and by such (if any) other means as he thinks fit a notice stating that the scheme has been submitted to him, containing a concise summary of it and, if it provides for transferring interests in land, a general description of the land interests in which are to be transferred, naming a place where a copy of the scheme and (if copies of a map or maps were deposited with it) 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 him objection to the scheme 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; and
- (b) if provision is included in the scheme for transferring interests in land, he shall, in the case of each parcel of land interests in which are to be

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transferred, serve on the owner of each interest to be transferred a notice stating that the scheme has been submitted to the Minister and includes provision transferring the interest in that parcel (describing it) of the person served, naming a place where a copy of the scheme and a copy (on the like scale) of the map deposited therewith 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 the Minister objection to the scheme so far as regards the inclusion therein of provision transferring his interest in 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; and

- (c) ^{F3}
- (d) ^{F4}, he shall on each (if any there be) of the harbour authorities who between them are engaged in improving, maintaining or managing the several harbours comprised in the group and are not parties to the submission of the scheme, and, if [^{F5}a local lighthouse authority who are not a harbour authority] are affected by the scheme, on them, contemporaneously serve [^{F5}a copy of the scheme, together (if copies of a map or maps were deposited with it) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that the scheme has been submitted to the Secretary of State and that, if the authority served desire to make to the Secretary of State objection to the scheme, 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].

<p>Textual Amendments</p> <p>F3 Para. 2(c) repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II</p> <p>F4 Words repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II</p> <p>F5 Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 14(5)</p> <hr/> <p>Modifications etc. (not altering text)</p> <p>C3 Para. 2(a) amended by Docks and Harbours Act 1966 (c. 28, SIF 58), s. 42(3)</p>
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3 (1) Where effect has been given to paragraph 2 above in the case of a harbour reorganisation scheme submitted to the Minister and the time for the due making to the Minister of objection to the scheme has elapsed, the following provisions of this paragraph shall have effect.

^{F6}(2)

- (5) If ^{F7}... objections thereto that were duly made to the Minister have not been withdrawn, he shall, unless he decides that the scheme shall not proceed further [^{F8}and subject to sub-paragraph (5A) below], cause [^{F9}an inquiry to be held with respect to] each objection so made and not withdrawn [^{F10}to be considered—
 - (a) at an inquiry;
 - (b) at a hearing before a person appointed by the Scottish Ministers; or
 - (c) by way of written representations,]

unless, in his opinion, it is frivolous or too trivial to warrant [^{F11}the holding of an inquiry with respect thereto][^{F11}being considered in any of these ways]^{F7}

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- [^{F12}(5A) The Scottish Ministers are not to cause to be considered by way of written representations under sub-paragraph (5)(c) above an objection made by a harbour authority on whom a copy of the scheme was served under paragraph 2(d) above.]
- (6) [^{F13}After considering the objections (if any) made and not withdrawn, 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] if he then decides to confirm the scheme, may by order confirm it without modifications or (subject to the restrictions imposed by sub-paragraph (7) below) with such modifications as he thinks fit.
- (7) Where the Minister proposes to confirm the scheme with modifications which appear to him substantially to affect the character of the scheme as submitted to him, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing them that submitted the scheme to him, and other persons likely to be concerned, and shall not confirm the scheme until such period for consideration of, and comment upon, the proposed modifications by them that submitted the scheme and those other persons as he thinks reasonable has elapsed; nor shall he confirm the scheme subject to a modification that results in its including provision transferring an interest of a person in property that was not described in the scheme as submitted to him as being property in which interests of that person were subject to be transferred unless that person consents to its being so confirmed.
- (8) The Minister may disregard for the purposes of this paragraph an objection to the scheme 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 scheme of a provision transferring interests of a person in any property if he is satisfied that the objection relates exclusively to matters in respect of which compensation falls to be provided under the scheme and that the scheme is so framed as to enable those matters to be properly dealt with.

Textual Amendments

- F6** Sch. 4 para. 3(2)–(4) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F7** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F8** Words in Sch. 4 para. 3(5) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(i)**, 30(4); S.S.I. 2007/516, art. 2
- F9** Words in Sch. 4 para. 3(5) repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(ii)**, 30(4); S.S.I. 2007/516, art. 2
- F10** Words in Sch. 4 para. 3(5) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(iii)**, 30(4); S.S.I. 2007/516, art. 2
- F11** Words in Sch. 4 para. 3(5) substituted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(iv)**, 30(4); S.S.I. 2007/516, art. 2
- F12** Sch. 4 para. 3(5A) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(b)**, 30(4); S.S.I. 2007/516, art. 2
- F13** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(4)**

Modifications etc. (not altering text)

- C4** Para. 3(5) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 42(2)**

- 4 So soon as may be after a harbour reorganisation scheme has been confirmed by the Minister, he shall publish by Gazette and local advertisement a notice stating that it has been confirmed and naming a place where a copy of it in the form in which it was confirmed (and, if a map or maps is or are annexed to the scheme, a

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copy of that map or, as the case may be, copies of those maps) may be inspected at all reasonable hours, and shall serve a copy of the scheme in the form aforesaid (and, if a map or maps is or are annexed to the scheme, a copy of that map or, as the case may be, copies of those maps) on each authority on whom a copy of the scheme as submitted to the Minister was served in compliance with a requirement imposed by paragraph 2 . . . ^{F14}(d) above . . . ^{F14}.

Textual Amendments

F14 Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

[^{F15}PART II

MODIFICATIONS SUBJECT TO WHICH PART I HAS EFFECT WITH RESPECT
 TO PROCEDURE FOR MAKING OF HARBOUR REORGANISATION
 SCHEMES BY THE SECRETARY OF STATE OF HIS OWN MOTION.

Textual Amendments

F15 Pt. II paras. 5–9 inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 6(7)**

- 5 References to confirming a scheme shall be construed as references to making a scheme.
- 6 Paragraph 1 shall be omitted.
- 7 In paragraph 2—
- (a) for the opening words down to “proceed” there shall be substituted “Where the Secretary of State proposes to make, of his own motion, a harbour reorganisation scheme”;
- (b) for the words “has been submitted to” wherever occurring there shall be substituted the words “is proposed to be made by” and in sub-paragraph (d) the words “and are not parties to the submission of the scheme” shall be omitted;
- (c) for any reference in sub-paragraph (a), (b) or (d) to a map deposited with the scheme there shall be substituted a reference to a map to be annexed to the scheme.
- 8 In paragraph 3—
- (a) in sub-paragraph (1) for the words “submitted to” there shall be substituted the words “proposed to be made by”;
- (b) in sub-paragraph (7) for the words “as submitted to him” there shall be substituted the words “as served under paragraph 2(d) above on the authorities there mentioned”, and there shall be omitted the words “that submitted the scheme to him” and the words “that submitted the scheme”.
- 9 In paragraph 4 for the words “submitted to” there shall be substituted the words “proposed to be made by.”]

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