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SCHEDULES

^{F1}SCHEDULE 1

Textual Amendments

F1 Sch. 1 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

^{F1}

SCHEDULE 2

Section 14.

OBJECTS FOR WHOSE ACHIEVEMENT HARBOUR REVISION ORDERS MAY BE MADE

Modifications etc. (not altering text)

C1 Sch. 2 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 36\(4\)](#)

- 1 Reconstituting the harbour authority by whom the harbour is being improved, maintained or managed or altering their constitution, or establishing, as the harbour authority, in lieu of the existing one, an existing body designated in that behalf or a body constituted for the purpose.
- 2 Regulating (in whole or to a less extent) the procedure of, or of any committee of, the authority and fixing the quorum at a meeting of, or of any committee of, the authority.
- 3 Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of—
 - (a) improving, maintaining or managing the harbour;
 - (b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or
 - (c) regulating the carrying [^{F2}on by others of activities relating to the harbour or of] activities on harbour land.

Textual Amendments

F2 Words in [Sch. 2 para. 3\(c\)](#) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), [s. 63\(1\)](#), [Sch. 3 para. 9\(2\)](#); [S.I. 1992/1347](#), [art. 2](#), Sch. (subject as mentioned in art. 3)

- 4 Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above.

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- 5 Transferring from the authority to another or to the authority from another all or any of the property vested in, as the case may be, the authority or that other and held for the purposes of the harbour and, so far as they relate to the transferred property, all or any of the duties and powers imposed and conferred on, as the case may be, the authority or that other by a statutory provision of local application affecting the harbour.
- 6 Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled.
- 7 Conferring on the authority power to acquire (whether by agreement or compulsorily) land described in the order, being land required by them for the purpose of its being used as the site of works that they have, or will by virtue of the order have, power to execute or for some other purpose of the harbour.
- [^{F3}7A Extinguishing or diverting public rights of way over footpaths [^{F4} or bridleways][^{F4}, bridleways or restricted byways] for the purposes of works described in the order or works ancillary to such works.]

Textual Amendments

- F3** Sch. 2 paras. 7A, 7B inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 9\(3\)](#); [S.I. 1992/1347, art. 2](#), [Sch.](#)(subject as mentioned in art. 3)
- F4** Words in Sch. 2 para. 7A substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), [Sch. Pt. I](#) (see [S.I. 2006/1172, art. 2\(a\)-\(d\)](#) (with art. 3) and [S.I. 2006/1279, art. 2\(a\)-\(d\)](#) (with art. 3))

Modifications etc. (not altering text)

- C2** Sch. 2 para. 7A applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), 2(1), [Sch. Pt. I](#) (see [S.I. 2006/1172, art. 2\(a\)-\(d\)](#) (with art. 3) and [S.I. 2006/1279, art. 2\(a\)-\(d\)](#) (with art. 3))

- ^{F5}7B Extinguishing public rights of navigation for the purposes of works described in the order or works ancillary to such works, or permitting interference with the enjoyment of such rights for the purposes of such works or for the purposes of works carried out by a person authorised by the authority to carry them out.

Textual Amendments

- F5** Sch. 2 paras. 7A, 7B inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 9\(3\)](#); [S.I. 1992/1347, art. 2](#), [Sch.](#)(subject as mentioned in art. 3)

- 8 Authorising justices of the peace to appoint, on the nomination of the authority, persons to act as constables within any limits within which the authority have jurisdiction in relation to the harbour and within one mile outside any such limits, and to dismiss persons appointed by virtue of this paragraph, and conferring on persons so appointed, while acting within any such limits as aforesaid or within one mile outside any such limits, the powers which a constable has within his constablewick.
- [^{F6}8A Enabling the authority to close part of the harbour or to reduce the facilities available in the harbour.]

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Textual Amendments

F6 Sch. 2 para. 8A inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(4); S.I. 1992/1347, art. 2, Sch.(subject as mentioned in art. 3)

9 Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes.

[^{F7}9A Empowering the authority (alone or with others) to develop land not required for the purposes of the harbour with a view to disposing of the land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land.]

Textual Amendments

F7 Sch. 2 paras. 9A, 9B inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(5); S.I. 1992/1347, art. 2, Sch.(subject as mentioned in art. 3)

^{F8}9B Empowering the authority to delegate the performance of any of the functions of the authority except—

- (a) a duty imposed on the authority by or under any enactment;
- (b) the making of byelaws;
- (c) the levying of ship, passenger and goods dues;
- (d) the appointment of harbour, dock and pier masters;
- (e) the nomination of persons to act as constables;
- (f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and sea-marks, so far as those functions are exercisable for the purposes of the safety of navigation.

Textual Amendments

F8 Sch. 2 paras. 9A, 9B inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(5); S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)

10 Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.

11 Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than as aforesaid) levied by them at the harbour.

12 Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.

13 Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.

14 Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.

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- 15 Securing the welfare of the authority’s officers and servants and empowering the authority to provide, or secure the provision of, pensions, gratuities and other like benefits for or in respect of their officers and servants.
- 16 Extending the time within which anything is required or authorised by a statutory provision of local application affecting the harbour to be done in relation to the harbour by the authority or fixing a time within which anything authorised by the order to be so done must be done.
- [^{F9}16A Imposing or conferring on the authority duties or powers (including powers to make byelaws) for the conservation of the natural beauty of all or any part of the harbour or of any of the fauna, flora or geological or physiographical features in the harbour and all other natural features.]

Textual Amendments

F9 Sch. 2 para. 16A inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 9(6)**; S.I. 1992/1347, art. 2, **Sch.** (subject as mentioned in art. 3)

- 17 Any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour.

[^{F10}SCHEDULE 3

Sections 17, 47

PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

Textual Amendments

F10 Sch. 3 substituted (1.2.2000) by [The Harbour Works \(Environmental Impact Assessment\) Regulations 1999 \(S.I. 1999/3445\)](#), reg. 15(4), **Sch. 3**

Modifications etc. (not altering text)

C3 Sch. 3 modified (1.4.2001) by [2000 c. 38](#), s. 37, **Sch. 5 para. 1(2)(j)** (with s. 106); S.I. 2001/869, **art.2**

PART I

ORDERS MADE ON APPLICATION TO THE SECRETARY OF STATE

Introductory

- 1 In this Part of this Schedule—
- “the Directive” means Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive [97/11/EC](#)[^{F11}and Council Directive [2003/35/EC](#)][^{F12}and by Directive [2003/35/EC](#) of the European Parliament and of the Council];
- “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

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“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“environmental statement” means a statement which includes the information mentioned in paragraph 8(2) and such additional information as the Secretary of State may require under paragraph 8(3);

“fishery harbour” has the meaning assigned to it in section 21 of the Sea Fish Industry Act 1951;

“project” means—

- (a) the execution of construction works or other installations or schemes, and
- (b) other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;

“relevant project” means a project which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“selection criteria” means the criteria set out in Annex III to the Directive;

“sensitive area” means any of the following—

- (a) [^{F13}land within a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981);]
[^{F14}land within a site of special scientific interest;]
- (b) [^{F14}land in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation (Scotland) Act 2004 (asp 6) has effect;]
- (c) [^{F15}land declared to be a national nature reserve under section 35 of that Act;]
- (d) [^{F15}an area to which paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995 applies;]
- (e) [^{F15}a National Park within the meaning of the National Parks and Access to the Countryside Act 1949;]
- (f) [^{F15}the Broads within the meaning of the Norfolk and Suffolk Broads Act 1988;]
- (g) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage;
- (h) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;
- (i) [^{F15}an area of outstanding natural beauty designated by order under [^{F16}section 87 of the National Parks and Access to the Countryside Act 1949][^{F16}section 82 of the Countryside and Rights of Way Act 2000] (designation of areas of outstanding natural beauty);]
- (j) [^{F17}a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994;]

[^{F17}a European site within the meaning of the Conservation of Habitats and Species Regulations 2010 (see regulation 8);]

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- (k) an area designated ^{F18}... [^{F19}as a National Scenic Area by a direction made by the Scottish Ministers under section 263A of the Town and Country Planning (Scotland) Act 1997];
- (l) [^{F20}an area designated as a national park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000].

Textual Amendments

- F11** Words in Sch. 3 para. 1 added (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(a)(i), 30(3)** (with s. 30(5))
- F12** Words in Sch. 3 para. 1 added (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **4** (with reg. 1(2))
- F13** Words in Sch. 3 para. 1 substituted (E.W.) (30.1.2001) by [2000 c. 37](#), ss. 76(1), 103(2), **Sch. 10 para. 3**
- F14** Words in Sch. 3 para. 1 substituted (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), s. 59(2), **Sch. 7 para. 1(a)** (with s. 55(2)); S.S.I. 2004/495, art. 2 (para (b) had previously been repealed for E.W. (30.1.2001 for E., 1.5.2001 for W.) by [2000 c. 37](#), s. 102, Sch. 16 Pt. III; S.I. 2001/114, art. 2(1)(d)(ii); S.I. 2001/1410, art. 2(p))
- F15** Words in Sch. 3 para. 1 repealed (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(a)(ii), 30(3)** (with s. 30(5))
- F16** Words in Sch. 3 para. 1 substituted (E.W.) (1.4.2001) by [2000 c. 37](#), s. 93, **Sch. 15 para. 4** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**
- F17** Words in Sch. 3 para. 1 substituted (E.W.) (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), **Sch. 6 para. 1** (with reg. 125)
- F18** Words in Sch. 3 para. 1 repealed (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), s. 59(2), **Sch. 7 para. 1(b)** (with s. 55(2)); S.S.I. 2004/495, art. 2
- F19** Words in Sch. 3 para. 1 substituted (S.) (17.12.2010) by [The National Scenic Areas \(Consequential Modifications\) \(Scotland\) Order 2010 \(S.S.I. 2010/460\)](#), **art. 2**
- F20** Words in Sch. 3 para. 1 added (S.) (14.5.2007) by virtue of [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(a)(iii), 30(3)** (with s. 30(5))

- 2 A project shall be treated for the purposes of this Part as not falling within Annex II to the Directive unless—
 - (a) the area of the works comprised in the project exceeds 1 hectare,
 - (b) any part of the works is to be carried out in a sensitive area, or
 - (c) the Secretary of State determines that the project shall be treated for the purposes of this Part as falling within that Annex.

Pre-application procedure

- 3 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 notice of his intention to make the application, and
 - (b) the Secretary of State has responded under paragraph 5 or 6(3).
- 4 Where the Secretary of State is notified of a proposed application under paragraph 3(a) he shall decide—
 - (a) whether the application relates to a project which falls within Annex I or II to the Directive, and

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- (b) if it relates to a project which falls within Annex II, whether, taking into account the selection criteria, the project is a relevant project.
- 5 If the Secretary of State decides that the application—
- (a) does not relate to a project which falls within Annex I or II to the Directive, or
- (b) relates to a project which falls within Annex II but is not a relevant project, he shall inform the proposed applicant in writing of his decision.
- 6 (1) If the Secretary of State decides that the application relates to a project which falls within Annex I or within Annex II to the Directive and is a relevant project—
- (a) he shall in writing inform the proposed applicant of the decision, and give him the reasons for his decision,
- (b) sub-paragraph (2) shall apply, and
- (c) if the applicant makes the application, paragraph 8 shall apply.
- (2) Where this sub-paragraph applies the Secretary of State shall give an opinion to the proposed applicant about the extent of the information referred to in Annex IV to the Directive which the proposed applicant would be required under paragraph 8(1) to supply in an environmental statement.
- (3) In giving an opinion under sub-paragraph (2), the Secretary of State shall take into account the extent to which he considers—
- (a) information to be relevant to his decision under paragraph 19 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 compile the information.
- (4) The Secretary of State shall not give an opinion under sub-paragraph (2) until he has consulted the proposed applicant and such bodies with environmental responsibilities as he thinks appropriate.

The application

- 7 An application for a harbour revision order must be accompanied by—
- (a) six copies of a draft of the proposed order,
- (b) six copies of any map which, if the order is made in the form of the draft, will be annexed to it, and
- (c) such fee as the Secretary of State may determine.
- 8 (1) Where this paragraph applies pursuant to paragraph 6(1), the Secretary of State shall direct the applicant to supply him with an environmental statement in such form as he may specify.
- (2) The environmental statement shall include the following information—
- (a) a description of the project comprising information on its site, design and size;
- (b) a description of the measures which the applicant proposes to take in order to prevent, reduce or remedy significant adverse effects;
- (c) data required to identify and assess the main effects which the project is likely to have on the environment;

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- (d) an outline of the main alternatives studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects; and
 - (e) a non-technical summary of the information mentioned in paragraphs (a) to (d).
- (3) The Secretary of State may require the applicant to include in the environmental statement specified information in addition to the information listed in sub-paragraph (2) (whether or not specified in the opinion given under paragraph 6(2)).
- (4) The Secretary of State may specify information under sub-paragraph (3) only if it is information of a type set out in Annex IV to the Directive and he considers that—
- (a) it is relevant to his decision under paragraph 19 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) (having regard in particular to current knowledge and methods of assessment) the applicant may reasonably be required to compile the information.
- 9 The Secretary of State shall not consider an application for a harbour revision order unless the applicant complies with any direction under paragraph 8(1) and with any relevant requirements of paragraphs 10 to 14.

Notices

- 10 (1) An applicant shall arrange for a notice to be published—
- (a) by Gazette and local advertisement, and
 - (b) in such other ways as the Secretary of State may direct.
- (2) The notice must—
- (a) state that an application has been made for the order,
 - (b) state the Secretary of State's decision under paragraph 4 and any reasons given under paragraph 6(1),
 - (c) state whether an environmental statement has been supplied under paragraph 8(1),
 - (ca) [^{F21}where such a statement has been supplied—
 - (i) provide an address from which a copy of the statement can, until the expiry of the period referred to in paragraph (f), be obtained and information as to the amount of any charge for the provision of such a copy, and
 - (ii) state whether paragraph 16 applies,]
 - [^{F22}where such a statement has been supplied—
 - (i) provide an address from which a copy of the statement can, until the expiry of the period referred to in head (f), be obtained and information as to the amount of any charge for the provision of such a copy,
 - (ii) provide an address from which further information about the works proposed to be authorised can, until the expiry of that period, be obtained, and
 - (iii) state whether paragraph 16 applies,]
 - (d) contain a concise summary of the draft order,

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- (e) give a general description of any land proposed for compulsory acquisition and of the nature of any works proposed to be authorised, ^{F23F24} ...
- (f) state that any person who desires to object to the application ^{F25} or to make representations in relation to any environmental statement supplied under paragraph 8(1) ^{F26} or to make representations in relation to any environmental statement supplied under paragraph 8(1) should do so in writing to the Secretary of State, specifying ^{F27} (where relevant) ^{F28} (where relevant) the grounds of the objection, before the expiry of the period of 42 days starting with a date specified in the notice, ^{F29} and
- (g) provide details of the procedure under this Schedule for dealing with any objection or representations made under head (f) ^{F30} and
- (g) provide details of the procedure under this Schedule for dealing with any objection or representations made as mentioned in the notice].

^{F31}(2A) Any charge imposed as mentioned in sub-paragraph (2)(ca)(i) must be reasonable.]

- (3) The date specified in accordance with sub-paragraph (2)(f) must be the date on which the notice first appears in a local newspaper.
- (4) The notice must also specify a place where copies of the following documents can ^{F32}, until the expiry of the period referred to in sub-paragraph (2)(f), ^{F33}, until the expiry of the period referred to in sub-paragraph (2)(f),] be inspected at all reasonable hours—
 - (a) the draft order,
 - (b) the decision of the Secretary of State referred to in sub-paragraph (2)(b),
 - (c) any environmental statement supplied under paragraph 8(1), and
 - (d) any map accompanying the application.
- (5) The copy of the map referred to in sub-paragraph (4)(d) must be drawn to the same scale as that map.

Textual Amendments

- F21** Sch. 3 para. 10(2)(ca) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009](#) (S.I. 2009/269), regs. 1(1), **5(2)(a)** (with reg. 1(2))
- F22** Sch. 3 para. 10(2)(ca) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007](#) (asp 8), **ss. 25(5)(b)(i), 30(3)** (with s. 30(5))
- F23** Word in Sch. 3 para. 10(2)(e) repealed (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007](#) (asp 8), **ss. 25(5)(b)(ii), 30(3)** (with s. 30(5))
- F24** Word in Sch. 3 para. 10(2) omitted (E.W.) (10.3.2009) by virtue of [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009](#) (S.I. 2009/269), regs. 1(1), **5(2)(b)** (with reg. 1(2))
- F25** Words in Sch. 3 para. 10(2)(f) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009](#) (S.I. 2009/269), regs. 1(1), **5(2)(c)** (with reg. 1(2))
- F26** Words in Sch. 3 para. 10(2)(f) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007](#) (asp 8), **ss. 25(5)(b)(iii), 30(3)** (with s. 30(5))
- F27** Words in Sch. 3 para. 10(2)(f) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009](#) (S.I. 2009/269), regs. 1(1), **5(2)(d)** (with reg. 1(2))

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- F28** Words in Sch. 3 para. 10(2)(f) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(iv), 30(3)** (with s. 30(5))
- F29** Sch. 3 para. 10(2)(g) and preceding word added (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(v), 30(3)** (with s. 30(5))
- F30** Sch. 3 para. 10(2)(g) and preceding word added (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(e)** (with reg. 1(2))
- F31** Sch. 3 para. 10(2A) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(3)** (with reg. 1(2))
- F32** Words in Sch. 3 para. 10(4) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(4)** (with reg. 1(2))
- F33** Words in Sch. 3 para. 10(4) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(c), 30(3)** (with s. 30(5))

10A^{F34}(1) This paragraph applies where—

- (a) a notice has been published under paragraph (10)(1) which states that an environmental statement has been supplied under paragraph 8(1), and
- (b) prior to the Secretary of State making a decision under paragraph 19(2)—
 - (i) he is supplied by the applicant or any other person with further information; and
 - (ii) he is of the view that that information requires to be considered in order properly to assess the likely environmental effects of the proposed project.

(2) Subject to sub-paragraph (3), where this paragraph applies the Secretary of State must publish a notice, or direct another person to publish a notice, which—

- (a) states that further information of the sort referred to in paragraph (b) has been received,
- (b) specifies a place where a copy of the information can, until the expiry of the period referred to in paragraph (d), be inspected at all reasonable hours,
- (c) provides an address from which a copy of the information can, until the expiry of that period, be obtained and details of the amount of any charge for the provision of such a copy, and
- (d) states that any person who desires to make representations in relation to the information should do so in writing to the Secretary of State before the expiry of the period of 42 days starting with a date specified in the notice.

(3) The Secretary of State is not required to publish, or direct the publication of, a notice under sub-paragraph (2) if he considers that the information will be made publicly available at an inquiry or hearing under paragraph 18.

(4) The notice must be published —

- (a) by Gazette and local advertisement, and
- (b) in such other ways, if any, as seem to the Secretary of State appropriate.

(5) Any charge imposed as mentioned in sub-paragraph (2)(c) must be reasonable.

(6) The date specified in accordance with sub-paragraph (2)(d) must be the date on which the notice first appears in a local newspaper.]

Status: Point in time view as at 01/04/2013.

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- [^{F35}(1) This paragraph applies where—
- (a) an environmental statement has been supplied under paragraph 8(1), and
 - (b) prior to the Scottish Ministers making a decision under paragraph 19(2), they are supplied by the applicant or any other person with further information falling within sub-paragraph (2).
- (2) Information falls within this sub-paragraph if—
- (a) the Scottish Ministers are of the view that it requires to be considered in order properly to assess the likely environmental effects of the proposed project, and
 - (b) it is not information required for the purposes of an inquiry or hearing held under paragraph 18.
- (3) The applicant shall arrange for a notice to be published—
- (a) by Gazette and local advertisement, and
 - (b) in such other ways as seem to the Scottish Ministers appropriate.
- (4) The notice must—
- (a) state that further information of the sort referred to in sub-paragraph (2)(a) has been received,
 - (b) specify a place where a copy of the information can, until the expiry of the period referred to in head (d), be inspected at all reasonable hours,
 - (c) provide an address from which a copy of the information can, until the expiry of that period, be obtained and details of the amount of any charge for the provision of such a copy, and
 - (d) state that any person who desires to make representations in relation to the information should do so in writing to the Scottish Ministers before the expiry of the period of 42 days starting with a date specified in the notice.
- (5) The date specified in accordance with sub-paragraph (4)(d) must be the date on which the notice first appears in a local newspaper.]

Textual Amendments

F34 Sch. 3 para. 10A added (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), 6 (with reg. 1(2))

F35 Sch. 3 para. 10A added (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. 25(5)(d), 30(3) (with s. 30(5))

- 11 If the order will authorise the compulsory acquisition of land the applicant shall, in respect to each parcel of land, serve a notice on [^{F36}every owner, lessee and occupier other than a tenant for a month or any period less than a month][^{F36}every owner, lessee, tenant (whatever the tenancy period) and occupier]—
- (a) stating that an application has been made to the Secretary of State for the making of an order which will authorise the compulsory acquisition of the parcel,
 - (b) naming a place where a copy of the draft order may be inspected at all reasonable hours,
 - (c) naming a place where a copy of any relevant map accompanying the application, drawn to the same scale and delineating the boundaries of the parcel, may be inspected at all reasonable hours, and

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- (d) stating that if the person on whom the notice is served wishes to object to the application so far as regards the compulsory acquisition of the parcel he should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.

Textual Amendments

F36 Words in Sch. 3 para. 11 substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 5** (with art. 1(3))

- 12 (1) If the order will result in the extinguishment or diversion of a public right of way over a footpath [^{F37}or bridleway]^{F37}, bridleway or restricted byway], the applicant shall—
- (a) serve a notice on every local authority for the area in which the footpath or bridleway is situated, and
 - (b) cause a copy of the notice to be displayed in a prominent position at each end of the part of the footpath or bridleway which would by virtue of the order cease to be subject to the public right of way.
- (2) The notice mentioned in sub-paragraph (1) must—
- (a) state that an application has been made to the Secretary of State for the making of an order which will result in the extinguishment or diversion of the public right of way over the footpath or bridleway,
 - (b) name a place where a copy of the draft order may be inspected at all reasonable hours,
 - (c) name a place where a copy of any relevant map accompanying the application, drawn to the same scale, may be inspected at all reasonable hours, and
 - (d) state that any person who desires to object to the application, so far as regards the extinguishment or diversion of the public right of way, should do so in writing to the Secretary of State, specifying the grounds of the objection, before the expiry of the period of 42 days starting with—
 - (i) in the case of a local authority served with a notice under paragraph 12(1)(a), the date on which the notice is served on them, or
 - (ii) in the case of any other person, the date specified in the notice displayed under paragraph 12(1)(b).
- (3) In this paragraph “local authority” means—
- (a) in England, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish council and a parish meeting of a parish not having a separate parish council,
 - (b) in Wales, a county council, a county borough council and a community council, and
 - (c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

Textual Amendments

F37 Words in Sch. 3 para. 12 substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg.

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1(2)(4), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

Modifications etc. (not altering text)

C4 Sch. 3 para. 12 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), 2(1), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

- 13 (1) If the applicant is not the harbour authority, the applicant shall serve on that authority a copy of the draft order and of any map accompanying the application together with a notice stating—
- (a) that the application has been made to the Secretary of State, and
 - (b) that if the authority wish to object to the application is should do so in writing to the Secretary of State, specifying the grounds of its objection, before the expiry of the period of 42 days starting with the date on which the notice is served on it.
- (2) The copy of the map referred to in sub-paragraph (1) must be drawn to the same scale as that map.
- 14 The Secretary of State may require the applicant to serve on any specified person within any specified period of time the documents required to be served under paragraph 13.

Consultation

- 15 Before the Secretary of State determines an application he shall—
- (a) consult, and
 - (b) send any environmental statement supplied to him under paragraph 8(1) [^{F38}and any further information by virtue of the supply of which paragraph 10A applies][^{F39}and any further information falling within paragraph 10A(2)] to,
- such bodies likely to have an interest in the project by reason of their environmental responsibilities as he thinks appropriate.

Textual Amendments

- F38** Words in Sch. 3 para. 15(b) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), 7 (with reg. 1(2))
- F39** Words in Sch. 3 para. 15(b) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. 25(5)(e), 30(3) (with s. 30(5))

- 16 (1) This paragraph applies where—
- (a) an application for a harbour revision order relates to a project which is proposed to be carried out in Great Britain,
 - (b) the Secretary of State decides under paragraph 6(1)—
 - (i) that the application relates to a project which falls within Annex I or II to the Directive, and
 - (ii) in the case of an application relating to a project which falls within Annex II to the Directive, that the project is a relevant project, and

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- (c) it comes to the attention of the Secretary of State that the project is likely to have significant effects on the environment in another EEA State, or another EEA State requests particulars of the project.
- (2) The Secretary of State shall—
- (a) publish in the Gazette the particulars mentioned in sub-paragraph (3) in a notice with an indication of where further information is available,
 - (b) serve on the other EEA State as soon as possible and no later than the date of publication of that notice, the particulars mentioned in sub-paragraph (3) and, if he thinks fit, the information mentioned in sub-paragraph (4), and
 - (c) give the other EEA State a reasonable time in which to indicate whether it wishes to be consulted in accordance with sub-paragraph (6).
- (3) The particulars referred to in sub-paragraph (2)(a) and (b) are—
- (a) a description of the project, together with any available information on its possible significant effects on the environment in the other EEA State; and
 - (b) information about the nature of the decision which may be taken under this Part.
- (4) The information to be served on an EEA State which indicates, in accordance with sub-paragraph (2)(c), that it wishes to be consulted in accordance with sub-paragraph (6) is—
- (a) a copy of the application,
 - (b) the environmental statement supplied to the Secretary of State under paragraph 8(1) [^{F40}and any further information falling within paragraph 10A(2)], and
 - (c) information regarding the procedure under this Part,
- but only to the extent that such information has not already been provided to the EEA State in accordance with [^{F41}sub-paragraph (2)(b)].
- (5) The Secretary of State shall also—
- (a) arrange for the information referred to in sub-paragraphs (3) and (4) to be made available, within a reasonable time, to the authorities likely to have an interest in the project by reason of their environmental responsibilities, and the public concerned, in the territory of the EEA State concerned; and
 - (b) ensure that those authorities and the public concerned are given a reasonable opportunity, before he decides whether to make the harbour revision order in relation to the project, to send to the Secretary of State their opinion on the information.
- (6) The Secretary of State shall—
- (a) consult the EEA State concerned about the project generally and, in particular, about the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
 - (b) endeavour to agree with the EEA State a reasonable period of time for the duration of the consultation period.
- (7) Where an EEA State has been consulted in accordance with sub-paragraph (6), on the determination of the application the Secretary of State shall inform the EEA State of the decision and send it a statement giving—

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- (a) the content of the decision whether or not to make the order and any conditions attached to the decision;
- (b) the main reasons and considerations on which the decision is based;
- (ba) [^{F42}details of what provision was made for public participation in the making of the decision;]
- [^{F43}details of what provision was made for public participation in the making of the decision;]
- (c) a description, where necessary, of the main measures to prevent, reduce or offset the major adverse effects; and
- (d) confirmation that any opinion sent to the Secretary of State in accordance with sub-paragraph (5)(b) has been taken into consideration in reaching the decision.

Textual Amendments

- F40** Words in Sch. 3 para. 16(4)(b) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(f)(i), 30(3)** (with s. 30(5))
- F41** Words in Sch. 3 para. 16(4) substituted (2.10.2000) by [S.I. 2000/2391](#), **reg. 2(d)**
- F42** Sch. 3 para. 16(7)(ba) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(f)(ii), 30(3)** (with s. 30(5))
- F43** Sch. 3 para. 16(7)(ba) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), **regs. 1(1), 8** (with reg. 1(2))

Objections

- 17 — The following paragraphs in this Part have effect where—
- (a) all relevant notices concerning an application for the making of a harbour revision order have been published under paragraph 10(1)^[F44], 10A] or 16(2)(a),
 - (b) all notices and other documents which are required to be served under paragraph 11, 12(1), 13(1), 14 or 16(2)(b) have been served, and
 - (c) every period for the making of objections [^{F45}or representations]^{[F46}or representations] to the Secretary of State in respect of the application has expired.

Textual Amendments

- F44** Word in Sch. 3 para. 17(a) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), **regs. 1(1), 9(a)** (with reg. 1(2))
- F45** Words in Sch. 3 para. 17(c) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), **regs. 1(1), 9(b)** (with reg. 1(2))
- F46** Words in Sch. 3 para. 17(c) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(g), 30(3)** (with s. 30(5))

- 18 [^{F47}(1) This paragraph applies if an objection to the application was made to the appropriate authority and has not been withdrawn.

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- (1A) This paragraph does not apply if—
- (a) the appropriate authority decides that the application is not to proceed further,
 - (b) the appropriate authority considers that the objection is frivolous or trivial,
 - (c) the objection does not specify the grounds on which it is made, or
 - (d) the objection was not made within the period allowed for making it.
- (1B) Before deciding the application under paragraph 19, the appropriate authority may—
- (a) cause an inquiry to be held, or
 - (b) give to the person who made the objection an opportunity of appearing before, and being heard by, a person appointed by the appropriate authority.
- (1C) If the objection—
- (a) was made by the Welsh Ministers to the Secretary of State, and
 - (b) is not an objection regarding compulsory acquisition of a parcel of land,
- the Secretary of State must cause an inquiry to be held under sub-paragraph (1B)(a).
- (1D) If, in a case where sub-paragraph (1C) does not apply,—
- (a) the objection was made by a person within sub-paragraph (1E), and
 - (b) that person makes a request in writing to the appropriate authority that the objection be referred to an inquiry or dealt with in accordance with sub-paragraph (1B)(b),
- the appropriate authority must either cause an inquiry to be held under sub-paragraph (1B)(a) or cause the objection to be dealt with in accordance with sub-paragraph (1B)(b), as the appropriate authority may determine.
- (1E) The persons within this sub-paragraph are—
- (a) in the case of an application to the Secretary of State, the Welsh Ministers;
 - (b) any local authority for an area in which the harbour (or any part of it) is situated;
 - (c) the relevant conservation body;
 - (d) if the order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.]
- [^{F48}(1) This paragraph applies if an objection to the application was made to the Scottish Ministers and has not been withdrawn.
- (1A) It does not apply, however, if—
- (a) the Scottish Ministers decide that the application is not to proceed further;
 - (b) they consider the objection is frivolous or trivial;
 - (c) the objection does not specify the grounds on which it is made; or
 - (d) the objection was not made within the period allowed for making it.
- (1B) Before making their decision under paragraph 19, the Scottish Ministers may—
- (a) cause an inquiry to be held; or
 - (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.
- (1C) Where—

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- (a) the objection referred to in sub-paragraph (1) is made by a person within sub-paragraph (1D); and
- (b) the person informs the Scottish Ministers in writing that the person wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (1B)(b),

the Scottish Ministers shall, before making their decision under paragraph 19, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (1B)(b).

(1D) The persons within this sub-paragraph are—

- (a) any council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated; and
- [the harbour authority;]

^{F49}(aa)

- (b) if the order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.]

(2) Where an objector is heard in accordance with [^{F50}sub-paragraph (1B)(b)][^{F51}sub-paragraph (1B)(b)], the [^{F52}Secretary of State][^{F52}appropriate authority] shall allow the applicant and such other persons as [^{F53}he][^{F53}the authority] thinks appropriate to be heard on the same occasion.

(3) The [^{F54}Secretary of State][^{F54}appropriate authority] may disregard an objection—

^{F55}^{F56}(a)

-
- (b) in the case of an objection about compulsory acquisition, if [^{F57}he][^{F57}the appropriate authority] is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom compensation in respect of the acquisition will fall to be assessed in default of agreement.

^{F58}(4) In this paragraph—

“the appropriate authority” means—

- (a) in a case where the application was made to the Secretary of State, the Secretary of State;
- (b) in a case where the application was made to the Welsh Ministers, the Welsh Ministers;

“local authority” means—

- (a) in England, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish council and a parish meeting of a parish not having a separate parish council, and
- (b) in Wales, a county council, a county borough council and a community council;

“the relevant conservation body” means—

- (a) if the harbour (or any part of it) is situated in England, Natural England, and
- (b) if the harbour (or any part of it) is situated in Wales, [^{F59}the Natural Resources Body for Wales].]

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Textual Amendments

- F47** Sch. 3 para. 18(1)-(1E) substituted for Sch. 3 para. 18(1) (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(2)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F48** Sch. 3 para. 18(1)-(1D) substituted (S.) for Sch. 3 para. 18(1) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(2)**, 54(2) (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F49** Sch. 3 para. 18(1D)(aa) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(h)**, 30(4); S.S.I. 2007/516, art. 2
- F50** Words in Sch. 3 para. 18(2) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(3)(a)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F51** Words in Sch. 3 para. 18(2) substituted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(3)**, 54(2) (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F52** Words in Sch. 3 para. 18(2) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(3)(b)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F53** Words in Sch. 3 para. 18(2) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(3)(c)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F54** Words in Sch. 3 para. 18(3) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(4)(a)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F55** Sch. 3 para. 18(3)(a) repealed (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(4)**, 54(2) (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F56** Sch. 3 para. 18(3)(a) repealed (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), Sch. 21 para. 5(4)(b), **Sch. 22 Pt. 6** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. paras. 2627(c)
- F57** Words in Sch. 3 para. 18(3)(b) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(4)(c)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F58** Sch. 3 para. 18(4) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(5)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F59** Words in Sch. 3 para. 18(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 32** (with Sch. 7)

The decision

- 19 (1) The Secretary of State shall consider—
- (a) any environmental statement supplied under paragraph 8(1) [^{F60}and any further information by virtue of the supply of which paragraph 10A applies][^{F61}and any further information falling within paragraph 10A(2)];
 - (b) the result of any consultations under paragraph 15;
 - (c) any opinion sent under paragraph 16(5)(b) and the result of any consultations with other EEA States under paragraph 16(6)(a);
 - (d) any objections made and not withdrawn; ^{F62F63} ...
 - (da) [^{F64}any representations made under paragraph 10(2)(f) or 10A(4)(d);]

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- [^{F65}any representations made as specified in a notice published under paragraph 10 or 10A; and]
- (e) the report of any person who held an inquiry and of any person appointed for the purpose of hearing an objector under paragraph 18^{F66}; and
 - (f) any written representations submitted to the Scottish Ministers by the applicant or any objector in elaboration of the application or, as the case may be, objection.]
- (2) Following the consideration required by sub-paragraph (1) the Secretary of State shall decide—
- (a) not to make the order applied for,
 - (b) to make it in the form of the draft submitted to him, or
 - (c) to make it with modifications.

Textual Amendments

- F60** Words in Sch. 3 para. 19(1)(a) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **10(a)** (with reg. 1(2))
- F61** Words in Sch. 3 para. 19(1)(a) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(i)(i), 30(3)** (with s. 30(5))
- F62** Word in Sch. 3 para. 19(1) repealed (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(5), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F63** Word in Sch. 3 para. 19(1)(d) omitted (E.W.) (10.3.2009) by virtue of [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **10(b)** (with reg. 1(2))
- F64** Sch. 3 para. 19(1)(da) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(i)(ii), 30(3)** (with s. 30(5))
- F65** Sch. 3 para. 19(1)(da) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **10(c)** (with reg. 1(2))
- F66** Sch. 3 para. 19(1) and preceding word inserted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(5), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

- 20 (1) This paragraph applies where the Secretary of State decides under paragraph 6(1)—
- (a) that the application relates to a project which falls within Annex I or II to the Directive, and
 - (b) in the case of an application relating to a project which falls within Annex II to the Directive, that the project is a relevant project.
- (2) The Secretary of State shall publish [^{F67}by Gazette and local advertisement][^{F68}by Gazette and local advertisement] the following information—
- (a) the content of the decision whether or not to make the order and any conditions attached to the decision,
 - (b) the main reasons and considerations on which his decision is based,
 - [^{F69}(ba) details of what provision was made for public participation in the making of the decision,
 - (bb) a statement regarding the right to challenge the validity of the decision and the procedures for doing so,]

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- [^{F70}(ba) details of what provision was made for public participation in the making of the decision,
- (bb) a statement regarding the right to challenge the validity of the decision and the procedures for doing so,]
- (c) a description, where necessary, of the main measures to prevent, reduce or offset the major adverse effects, and
- (d) a statement that the matters referred to in paragraph 19(1) have been taken into consideration.

Textual Amendments

- F67** Words in Sch. 3 para. 20(2) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **11(a)** (with reg. 1(2))
- F68** Words in Sch. 3 para. 20(2) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. **25(5)(j)(i)**, 30(3) (with s. 30(5))
- F69** Sch. 3 para. 20(2)(ba)(bb) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. **25(5)(j)(ii)**, 30(3) (with s. 30(5))
- F70** Sch. 3 para. 20(2)(ba)(bb) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **11(b)** (with reg. 1(2))

The order

- 21 (1) Where the Secretary of State proposes to make the order applied for with modifications which appear to him substantially to affect the character of the order he—
- (a) 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
 - (b) shall not make the order [^{F71}or, if the order is subject to the affirmative procedure by virtue of section 54A(4) of this Act, lay before the Scottish Parliament a draft statutory instrument containing it,] until such period for consideration of, and comment upon, the proposed modifications by the applicant and those other persons as he thinks reasonable has expired.
- (2) The Secretary of State shall not make the order with a modification authorising the compulsory acquisition of land that was not described in the draft submitted to him as land subject to be acquired compulsorily, unless all persons interested consent.

Textual Amendments

- F71** Words in Sch. 3 para. 21(1)(b) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(a)** (with arts. 8, 9)

- 22 (1) This paragraph applies where the Secretary of State makes an order which authorises the compulsory purchase of land and is—
- (a) a harbour revision order relating to a harbour in England or Wales, or

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(b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales.

(2) The order shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 or paragraph 5 or 6 of Schedule 3 to that Act (National Trust land, commons etc), if it were an order under section 2(1) of that Act.

[^{F72}23 (1) This paragraph applies to—

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

where the order authorises the compulsory purchase of land.

(2) The order shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 1(2)(b) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (land forming part of a common or open space or held inalienably by the National Trust for Scotland) if it were an order under section 1(1) of that Act.]

Textual Amendments

F72 Sch. 3 para. 23 repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\), s. 30\(4\), Sch. 3; S.S.I. 2007/516, art. 2](#)

24 (1) As soon as possible after a harbour revision order has been made^[F73], or where (by virtue of section 54A(4) of this Act) the order is subject to the affirmative procedure a draft statutory instrument containing it has been laid before the Scottish Parliament], the applicant shall—

- (a) publish a notice by Gazette and local advertisement,
- (b) serve on the harbour authority (unless the applicant is the harbour authority) a copy of the order and a copy of any map annexed to it,
- (c) serve a copy of the order and of any map annexed to it on each local authority on whom, in compliance with a requirement imposed by virtue of paragraph 12, a notice was served, and
- (d) serve a copy of the order and of any map annexed to it on each person on whom, in compliance with a requirement imposed by virtue of paragraph 14, a copy of the draft order was served.

(2) The notice mentioned in sub-paragraph (1)(a) must—

- (a) state that the order has been made^[F74], or as the case may be that a draft statutory instrument containing it has been laid before the Scottish Parliament],
- (b) name a place where a copy of the order and any map annexed to it may be inspected at all reasonable hours, ^[F75]and

^[F75](c) if subsection (4) of section 54A of this Act does not apply to the statutory instrument containing the order, give information regarding—

- (i) the date on which the order comes into operation, and
- (ii) the right to challenge the validity of the order and the procedure for doing so, and

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[^{F76}(d) if that subsection does apply to the order, state that the order cannot be made unless the Scottish Parliament, by resolution, approves the draft statutory instrument containing it.]]

[^{F77}(3) [^{F78}Where a harbour revision order is subject to the affirmative procedure by virtue of section 54A(4) of this Act, as soon as possible after the order has been made or the Scottish Parliament has decided not to approve the draft statutory instrument containing it], the applicant for that order shall publish by Gazette and local advertisement a notice—

[^{F79}(a) stating that the order has been made, or as the case may be that the Scottish Parliament has decided not to approve the draft statutory instrument containing it, and]

(b) where [^{F80}the order has been made], providing information regarding—

- (i) the place where a copy of the order and any map annexed to it may be inspected at all reasonable hours,
- (ii) the date on which the order comes into operation, and
- (iii) the right to challenge the validity of the order and the procedure for doing so.]

Textual Amendments

- F73** Words in Sch. 3 para. 24(1) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(b\)](#) (with arts. 8, 9)
- F74** Words in Sch. 3 para. 24(2)(a) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(c\)\(i\)](#) (with arts. 8, 9)
- F75** Sch. 3 para. 24(2)(c)(d) substituted (S.) for Sch. 3 para. 24(2)(c) and preceding word (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 25\(5\)\(k\)](#), 30(4); S.S.I. 2007/516, art. 2
- F76** Sch. 3 para. 24(2)(d) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(c\)\(ii\)](#) (with arts. 8, 9)
- F77** Sch. 3 para. 24(3) added (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 25\(5\)\(l\)](#), 30(4); S.S.I. 2007/516, art. 2
- F78** Words in Sch. 3 para. 24(3) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(d\)\(i\)](#) (with arts. 8, 9)
- F79** Sch. 3 para. 24(3)(a) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(d\)\(ii\)](#) (with arts. 8, 9)
- F80** Words in Sch. 3 para. 24(3)(b) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(d\)\(iii\)](#) (with arts. 8, 9)

Statutory undertakers' land

- 25 (1) This paragraph applies where application is made to the Secretary of State for a harbour revision order which will authorise the compulsory acquisition of land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking.

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- (2) If on a representation made to it the appropriate authority is satisfied—
 - (a) that any of the said land is used for the purposes of the carrying on of the statutory undertakers' 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 such land unless sub-paragraph (3) applies.
- (3) This sub-paragraph applies where that authority certifies that the nature and situation of the land are such—
 - (a) that, without serious detriment to the carrying on of the undertaking, it can be acquired and not replaced, or
 - (b) that, if acquired, it can, without such detriment as aforesaid, be replaced by other land belonging to, or available for acquisition by, the undertakers.
- (4) The representation mentioned in sub-paragraph (2) must be made before the expiry of the period of 42 days starting with the date on which the notice that the application has been made for the order first appears in a local newspaper.
- (5) In this paragraph "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 of the following undertakings—
 - (a) a railway, light railway, tramway or road transport undertaking;
 - (b) an undertaking the activities of which 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 hydraulic power.
- (6) In this paragraph, "the appropriate authority" means—
 - (a) in relation to a statutory undertaker authorised to carry on an undertaking whose activities consist in the improvement, maintenance or management of—
 - (i) a fishery harbour in England, the Minister of Agriculture, Fisheries and Food; or
 - (ii) a fishery harbour in Wales, the National Assembly for Wales;
 - (b) in relation to a statutory undertaker authorised to carry on an undertaking in Scotland, and in relation to whom the relevant Ministerial function has been transferred to the Scottish Ministers under the Scotland Act 1998, the Scottish Ministers; and
 - (c) in relation to any other statutory undertaker, the Secretary of State.

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PART II

ORDERS MADE BY THE SECRETARY OF STATE OF HIS OWN MOTION

Notices

- 26 (1) Where the Secretary of State proposes to make a harbour revision order of his own motion, he shall first—
- (a) publish a notice by Gazette and local advertisement and in such other ways as he thinks appropriate, and
 - (b) serve on the harbour authority, and on any other person who he thinks ought to have notice of the proposal, a copy of the draft order and a notice.
- (2) The notice mentioned in sub-paragraph (1)(a) must—
- (a) state that the Secretary of State proposes to make the order,
 - (b) contain a concise summary of the draft order,
 - (c) name a place where a copy of the draft order may be inspected at all reasonable hours, and
 - (d) state that any person who desires to object to the proposal should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date specified in the notice.
- (3) The date specified in accordance with sub-paragraph (2)(d) must be the date on which the notice first appears in a local newspaper.
- (4) The notice mentioned in sub-paragraph (1)(b) must—
- (a) state that the Secretary of State proposes to make the order, and
 - (b) state that if the harbour authority or other person served desires to object to the proposal he should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.

Objections

- 27 (1) The following paragraphs in this Part have effect where—
- (a) all notices concerning a proposal of the Secretary of State to make a harbour revision order have been published under paragraph 26(1)(a),
 - (b) all notices and other documents which are required to be served under paragraph 26(1)(b) have been served, and
 - (c) every period for the making of objections to the Secretary of State in respect of the proposal has expired.
- 28 ^{F81}(1) This paragraph applies if an objection to the proposal was made to the proposing authority and has not been withdrawn.
- (2) This paragraph does not apply if—
- (a) the proposing authority decides that the proposal is not to proceed further,
 - (b) the proposing authority considers that the objection is frivolous or trivial,
 - (c) the objection does not specify the grounds on which it is made, or
 - (d) the objection was not made within the period allowed for making it.

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- (3) Before deciding the application under paragraph 29, the proposing authority may—
- (a) cause an inquiry to be held, or
 - (b) give to the person who made the objection an opportunity of appearing before, and being heard by, a person appointed by the proposing authority.
- (4) If the objection was made by the Welsh Ministers to the Secretary of State, the Secretary of State must cause an inquiry to be held under sub-paragraph (3)(a).
- (5) Where—
- (a) the objection was made by a person within sub-paragraph (6), and
 - (b) that person makes a request in writing to the proposing authority that the objection be referred to an inquiry or dealt with in accordance with sub-paragraph (3)(b),
- the proposing authority must either cause an inquiry to be held under sub-paragraph (3)(a) or cause the objection to be dealt with in accordance with sub-paragraph (3)(b), as the proposing authority may determine.
- (6) The persons within this sub-paragraph are—
- (a) any local authority for an area in which the harbour (or any part of it) is situated, and
 - (b) the relevant conservation body.
- (7) Where an objector is heard in accordance with sub-paragraph (3)(b), the proposing authority must allow such other persons as the proposing authority thinks appropriate to be heard on the same occasion.
- (8) In this paragraph—
- “local authority” has the same meaning as in paragraph 18;
- “the proposing authority” means—
- (a) the Secretary of State, in a case where it is the Secretary of State who proposes to make a harbour revision order;
 - (b) the Welsh Ministers, in a case where it is the Welsh Ministers who propose to make a harbour revision order;
- “the relevant conservation body” has the same meaning as in paragraph 18.]
- [^{F82}(1) This paragraph applies if an objection to the proposal was made to the Scottish Ministers and has not been withdrawn.
- (2) It does not, however, apply if—
- (a) the Scottish Ministers decide that the proposal is not to proceed further;
 - (b) they consider the objection is frivolous or trivial;
 - (c) the objection does not specify the grounds on which it is made; or
 - (d) the objection was not made within the period allowed for making it.
- (3) Before making their decision under paragraph 29, the Scottish Ministers may—
- (a) cause an inquiry to be held; or
 - (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.
- (4) Where—

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- (a) the objection referred to in sub-paragraph (1) is made by a council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated [^{F83}or by the harbour authority]; and
- (b) the council [^{F84}or the authority] informs the Scottish Ministers in writing that it wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (3)(b),
- the Scottish Ministers shall, before making their decision under paragraph 29, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (3)(b).
- (5) Where an objector is heard in accordance with sub-paragraph (3)(b), the Scottish Ministers shall allow such other persons as they think appropriate to be heard on the same occasion.]

Textual Amendments

- F81** Sch. 3 para. 28 substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 6(1)** (with [Sch. 21 para. 7](#)); [S.I. 2009/3345](#), art. 2, Sch. para. 26
- F82** Sch. 3 para. 28 substituted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(1)**, 54(2) (with s. 48); [S.S.I. 2005/454](#), art. 2, sch. 2
- F83** Words in Sch. 3 para. 28(4)(a) added (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(m)(i)**, 30(4); [S.S.I. 2007/516](#), art. 2
- F84** Words in Sch. 3 para. 28(4)(b) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(m)(ii)**, 30(4); [S.S.I. 2007/516](#), art. 2

The decision

- 29 (1) The Secretary of State shall consider—
- (a) any objections made and not withdrawn, [^{F85}and]
- (b) the report of any person who held an inquiry [^{F86}and of any person appointed for the purpose of hearing an objector][^{F87}and of any person appointed for the purpose of hearing an objector] under paragraph 28[^{F88}; and
- (c) any written representations submitted to the Scottish Ministers by an objector in elaboration of the objection.]
- (2) Following the consideration required by sub-paragraph (1) the Secretary of State shall decide—
- (a) not to make the order proposed,
- (b) to make the order in the form of the draft, or
- (c) to make it with modifications.

Textual Amendments

- F85** Word in Sch. 3 para. 29(1) repealed (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(2)**, 54(2) (with s. 48); [S.S.I. 2005/454](#), art. 2, sch. 2
- F86** Words in Sch. 3 para. 29(1)(b) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 6(2)** (with [Sch. 21 para. 7](#)); [S.I. 2009/3345](#), art. 2, Sch. para. 26

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- F87** Words in Sch. 3 para. 29(1)(b) inserted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(2)(a), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F88** Sch. 3 para. 29(1)(c) and preceding word inserted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(2)(b), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

The order

- 30 Where the Secretary of State proposes to make the order with modifications which appear to him substantially to affect the character of the order as originally proposed to be made, he—
- (a) shall take such steps as appear to him to be sufficient and reasonably practicable for informing persons likely to be concerned, and
 - (b) shall not make the order ^{F89}or, if the order is subject to the affirmative procedure, lay before the Scottish Parliament a draft statutory instrument containing it,] until a reasonable period for consideration of, and comment upon, the proposed modifications by those persons has expired.

Textual Amendments

- F89** Words in Sch. 3 para. 30(b) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(e)** (with arts. 8, 9)

- 31 (1) As soon as possible after a harbour revision order has been made by the Secretary of State of his own motion he shall—
- (a) publish a notice by Gazette and local advertisement, and
 - (b) serve a copy of the order on each person on whom notice was served under paragraph 26(1)(b).
- (2) The notice mentioned in sub-paragraph (1)(a) must^{F90}—
- ^{F90}contain the information specified in paragraph 24(2)].
- ^{F91}(2A) Sub-paragraphs (2B) and (3) apply in relation to a harbour revision order where—
- (a) the Scottish Ministers have proposed to make the order of their own motion, and
 - (b) the order is subject to the affirmative procedure by virtue of section 54A(4) of this Act.
- (2B) The reference in sub-paragraph (1) to the order having been made by the Secretary of State of his own motion is to be read as a reference to a draft statutory instrument containing the order having been laid before the Scottish Parliament.]
- ^{F92}(3) As soon as possible after the ^{F93}order is made or the Scottish Parliament has decided not to approve a draft statutory instrument containing the order, the Scottish Ministers shall publish by Gazette and local advertisement a notice containing the information specified in head (a) of sub-paragraph (3) of paragraph 24 and, if appropriate, that specified in head (b) of that sub-paragraph.]

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Textual Amendments

- F90** Words in Sch. 3 para. 31(2) substituted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007](#) (asp 8), **ss. 25(5)(n)**, 30(4); S.S.I. 2007/516, art. 2
- F91** Sch. 3 para. 31(2A)(2B) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011](#) (S.S.I. 2011/396), arts. 1, **7(f)(i)** (with arts. 8, 9)
- F92** Sch. 3 para. 31(3) added (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007](#) (asp 8), **ss. 25(5)(o)**, 30(4); S.S.I. 2007/516, art. 2
- F93** Words in Sch. 3 para. 31(3) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011](#) (S.S.I. 2011/396), arts. 1, **7(f)(ii)** (with arts. 8, 9)

PART III

HARBOUR EMPOWERMENT ORDERS: MODIFICATIONS OF PART I

- 32 (1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(g) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Secretary of State are those set out in this paragraph.
- (2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order.
- (3) For paragraphs 13 and 14 there shall be substituted—

“13—

- 13 (1) The Secretary of State may require the applicant to serve on any specified person within any specified period of time a copy of the draft order and of any map accompanying the application together with a notice stating—
- (a) that the application has been made to the Secretary of State, and
 - (b) that, if the person wishes to object to the application he should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.”

[^{F94}(3A) Paragraph 18(1D)(aa) shall be omitted.]

- (2) The copy of the map referred to in sub-paragraph (1) must be drawn to the same scale as that map. "
- (4) Paragraph 24(1)(b) shall be omitted, and for the reference, in paragraph 24(1)(d), to paragraph 14, there shall be substituted a reference to paragraph 13(1).]

Status: Point in time view as at 01/04/2013.

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Textual Amendments

F94 Sch. 3 para. 32(3A) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 25\(5\)\(p\)](#), [30\(4\)](#); [S.S.I. 2007/516](#), [art. 2](#)

SCHEDULE 4

Sections 18 and 47.

[^{F95}PROCEDURE FOR CONFIRMING AND MAKING HARBOUR REORGANISATION SCHEMES]

Textual Amendments

F95 Heading substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(6\)](#)

Modifications etc. (not altering text)

C5 [Sch. 4](#) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 42\(2\)](#)

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 not less than six copies of the scheme together with not less than six copies of any map or maps which, if the scheme is confirmed in the form submitted, will be required to be annexed to it.
- 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 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

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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) ^{F96}
- (d) ^{F97}, 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 [^{F98}a local lighthouse authority who are not a harbour authority] are affected by the scheme, on them, contemporaneously serve [^{F98}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].

Textual Amendments

F96 Para. 2(c) repealed by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 12 Pt. II](#)

F97 Words repealed by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 12 Pt. II](#)

F98 Words substituted by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 5 para. 14\(5\)](#)

Modifications etc. (not altering text)

C6 Para. 2(a) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 42\(3\)](#)

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.

^{F99}(2)

- (5) If ^{F100}... 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 [^{F101}and subject to sub-paragraph (5A) below], cause [^{F102}an inquiry to be held with respect to] each objection so made and not withdrawn [^{F103}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 [^{F104}the holding of an inquiry with respect thereto][^{F104}being considered in any of these ways]^{F100}

^{F105}(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) [^{F106}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

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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

- F99** Sch. 4 para. 3(2)–(4) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F100** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F101** 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
- F102** 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
- F103** 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
- F104** 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
- F105** 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
- F106** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(4)**

Modifications etc. (not altering text)

- C7** 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 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 . . . ^{F107}(d) above . . . ^{F107}.

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Textual Amendments

F107 Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

[^{F108}**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

F108 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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SCHEDULE

5.

F109

Textual Amendments

F109 Sch. 5 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

SCHEDULE

6.

F110

Textual Amendments

F110 Sch. 6 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

Status:

Point in time view as at 01/04/2013.

Changes to legislation:

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