

Status: Point in time view as at 27/05/1997.

Changes to legislation: Local Government, Planning and Land Act 1980, Cross Heading: Extinguishment of public rights of way is up to date with all changes known to be in force on or before 10 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 28

URBAN DEVELOPMENT CORPORATIONS: LAND

PART III

LAND: SUPPLEMENTARY

Extinguishment of public rights of way

- 11 (1) Where any land has been vested in or acquired by an urban development corporation or local highway authority for the purposes of this Part of this Act and is for the time being held by that corporation or authority for those purposes, the Secretary of State may by order extinguish any public right of way over the land.
- (2) Where the Secretary of State proposes to make an order under this paragraph, he shall publish in such manner as appears to him to be requisite a notice—
- (a) stating the effect of the order, and
 - (b) specifying the time (not being less than 28 days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made,
- and shall serve a like notice—
- (i) on the district planning authority [^{F1}or, in Wales, the local planning authority] (or in Scotland the planning authority [^{F2}within the meaning of section 1 of the 1997 Act]) in whose area the land is situated, and
 - (ii) on the relevant highway authority.
- In this sub-paragraph “the relevant highway authority” means any authority which is a highway authority in relation to the right of way proposed to be extinguished by the order, other than an authority which has applied for the order to be made.
- (3) Where an objection to a proposal to make an order under this paragraph is duly made and is not withdrawn, the provisions of paragraph 12 below shall have effect in relation to the proposal.
- (4) For the purposes of this paragraph an objection to such a proposal shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by this paragraph, and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

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- (5) Where it is proposed to make an order under this paragraph extinguishing a public right of way over a road on land acquired for the purposes of this Act by an urban development corporation, and compensation in respect of restrictions imposed under section 1 or 2 of the ^{M1}Restriction of Ribbon Development Act 1935 in respect of that road has been paid by the highway authority (or, in the case of a trunk road, by the authority which, when the compensation was paid, was the authority for the purposes of section 4 of the ^{M2}Trunks Roads Act 1936), the order may provide for the payment by the urban development corporation to that authority, in respect of the compensation so paid of such sums as the Secretary of State, with the consent of the Treasury, may determine.
- (6) Where the Secretary of State is satisfied that the construction or improvement of a road is or will be needed in consequence of the extinguishment under this paragraph of a public right of way, section 143 above shall apply as it applies where the Secretary of State is satisfied that the construction or improvement of a road is needed as mentioned in subsection (1) of that section.
- (7) Where the Secretary of State makes an order under this paragraph on the application of an urban development corporation or local highway authority, he shall send a copy of it to the Post Office.

Textual Amendments

- F1** Words in Sch. 28 para. 11(2)(b)(i) inserted (1.4.1996) by 1994 c. 19, s. 20(4), Sch. 6 Pt. II para. 16(2) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1
- F2** Words in Sch. 28 para. 11(2)(b)(i) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 31(10) (b)

Marginal Citations

- M1** 1935 c. 47 (108).
- M2** 1936 c. 5. (1 Edw. 8 & 1 Geo. 6).

- 12 (1) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.
- (2) Unless the Secretary of State decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.
- (4) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to

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which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.

- (5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, urban development corporation or other person, if any, on whose representation the order is proposed to be made, and to any other persons to whom it appears to the Secretary of State to be expedient to afford such an opportunity.
- (6) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

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