

Status: Point in time view as at 01/04/1996. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Wildlife and Countryside Act 1981, SCHEDULE 15 is up to date with all changes known to be in force on or before 14 July 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 15 **E+W+S**

Sections 53 and 54.

PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART III

Consultation

- 1 Before making an order, the authority shall consult with every local authority whose area includes the land to which the order relates.

Coming into operation

- 2 An order shall not take effect until confirmed either by the authority or the Secretary of State under paragraph 6 or by the Secretary of State under paragraph 7.

Publicity for orders

- 3 (1) On making an order, the authority shall give notice in the prescribed form—
- (a) describing the general effect of the order and stating that it has been made and requires confirmation;
 - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
 - (c) specifying the time (not being less than 42 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) shall be given—
- (a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated;
 - (b) by serving a like notice on—
 - (i) every owner and occupier of any of that land;
 - (ii) every local authority whose area includes any of that land;
 - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3); and
 - (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate; and
 - (c) by causing a copy of the notice to be displayed in a prominent position—
 - (i) at the ends of so much of any way as is affected by the order;
 - (ii) at council offices in the locality of the land to which the order relates;and

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(iii) at such other places as the authority may consider appropriate.

- (3) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such orders as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph “specified” means specified in the requirement.
- (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i); but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to “The owners and any occupiers” of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.
- (5) Sub-paragraph (2)(b) and (c) and, where applicable, sub-paragraph (4) shall be complied with not less than 42 days before the expiration of the time specified in the notice.
- (6) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, shall be accompanied by a copy of so much of the order as relates to that land or, as the case may be, the area of that authority; and a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate shall be accompanied by a copy of the order.
- (7) A notice required to be displayed by sub-paragraph (2)(c) at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.
- (8) At any time after the publication of a notice under this paragraph and before the expiration of the period specified in the notice for the making of representations and objections, any person may require the authority to inform him what documents (if any) were taken into account in preparing the order and—
 - (a) as respects any such documents in the possession of the authority, to permit him to inspect them and take copies; and
 - (b) as respects any such documents not in their possession, to give him any information the authority have as to where the documents can be inspected;
 and on any requirement being made under this sub-paragraph the authority shall comply therewith within 14 days of the making of the requirement.
- (9) Nothing in sub-paragraph (8) shall be construed as limiting the documentary or other evidence which may be adduced at any local inquiry or hearing held under paragraph 7 or 8.

Representations or objections made with respect to abandoned surveys or reviews

- 4 (1) This paragraph applies where a survey begun under sections 27 to 32 of the 1949 Act, or a review begun under section 33 of that Act, is abandoned after a draft map and statement have been prepared.
- (2) If an order modifies the definitive map and statement so as—
 - (a) to show any particulars shown in the draft map and statement but not in the definitive map and statement; or

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- (b) to omit any particulars shown in the definitive map and statement but not in the draft map and statement,
any representation or objection duly made with respect to the showing in or omission from the draft map and statement of those particulars shall be treated for the purposes of paragraphs 6 and 7 as a representation or objection duly made with respect to the corresponding modifications made by the order.

Severance of orders

- 5 (1) Where at any time representations or objections duly made and not withdrawn relate to some but not all of the modifications made by an order, the authority may, by notice given to the Secretary of State, elect that, for the purposes of the following provisions of this Schedule, the order shall have effect as two separate orders—
- (a) the one comprising the modifications to which the representations or objections relate; and
 - (b) the other comprising the remaining modifications.
- (2) Any reference in sub-paragraph (1) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.

Unopposed orders

- 6 (1) If no representations or objections are duly made, or if any so made are withdrawn, the authority may—
- (a) confirm the order without modification; or
 - (b) if they require any modification to be made, submit the order to the Secretary of State for confirmation by him.
- (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State may confirm the order with or without modifications.

Opposed orders

- 7 (1) If any representation or objection duly made is not withdrawn the authority shall submit the order to the Secretary of State for confirmation by him.
- (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State shall either—
- (a) cause a local inquiry to be held; or
 - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
- (3) On considering any representations or objections duly made and the report of the person appointed to hold the inquiry or hear representations or objections, the Secretary of State may confirm the order with or without modifications.

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Restriction on power to confirm orders with modifications

- 8 (1) The Secretary of State shall not confirm an order with modifications so as—
- (a) to affect land not affected by the order;
 - (b) not to show any way shown in the order or to show any way not so shown; or
 - (c) to show as a highway of one description a way which is shown in the order as a highway of another description,
- except after complying with the requirements of sub-paragraph (2).
- (2) The said requirements are that the Secretary of State shall—
- (a) give such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;
 - (b) hold a local inquiry or afford any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and
 - (c) consider the report of the person appointed to hold the inquiry or to hear representations or objections.

Local inquiries

- 9 The provisions of subsections (2) to (5) of section 250 of the ^{M1}Local Government Act 1972 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under paragraph 7 or 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.

Marginal Citations

M1 1972 c. 70.

Appointment of inspectors etc.

- 10 (1) A decision of the Secretary of State under paragraph 6, 7 or 8 shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.
- (2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
- (3) Where the Secretary of State has appointed a person to make a decision under paragraph 6, 7 or 8 the Secretary of State may, at any time before the making of the

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decision, appoint another person to make it instead of the person first appointed to make it.

- (4) Where by virtue of sub-paragraph (2) or (3) a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.
- (5) Regulations under this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

VALID FROM 13/02/2004

[^{F1} Hearings and local inquiries]

Textual Amendments

F1 Sch. 15 para. 10A and cross-heading inserted (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, {art.2(a)}; S.I. 2005/2459, art. 2(2)(b)(iii)

[^{F2}10A(1) Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the ^{M2}Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) shall apply in relation to any hearing or local inquiry held under paragraph 7 or 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.

(2) In its application to a hearing or inquiry held under paragraph 7 or 8 by a person appointed under paragraph 10(1), subsection (5) of that section shall have effect as if the reference to the Minister causing the inquiry to be held were a reference to the person so appointed or the Secretary of State.

(3) Section 322A of the ^{M3}Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) shall apply in relation to a hearing or local inquiry under paragraph 7 or 8 as it applies in relation to a hearing or local inquiry for the purposes referred to in that section.]

Textual Amendments

F2 Sch. 15 para. 10A and cross-heading inserted (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, {art.2(a)}; S.I. 2005/2459, art. 2(2)(b)(iii)

Marginal Citations

M2 1972 c. 70.
M3 1990 c. 8.

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Notice of final decisions on orders

- 11 (1) As soon as practicable after a decision to confirm an order is made or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his decision, the authority shall give notice—
- (a) describing the general effect of the order as confirmed and stating that it has been confirmed (with or without modification) and the date on which it took effect; and
 - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours.
- (2) A notice under sub-paragraph (1) shall be given—
- (a) by publication in the manner required by paragraph 3(2)(a);
 - (b) by serving a like notice on any persons on whom notices were required to be served under paragraph 3(2)(b) or (4); and
 - (c) by causing like notices to be displayed in the like manner as the notices required to be displayed under paragraph 3(2)(c).
- (3) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, shall be accompanied by a copy of so much of the order as confirmed as relates to that land or, as the case may be, the area of that authority; and, in the case of an order which has been confirmed with modifications, a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate shall be accompanied by a copy of the order as confirmed.
- (4) As soon as practicable after a decision not to confirm an order or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his decision, the authority shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 3(2)(b) or (4).

Proceedings for questioning validity of orders

- 12 (1) If any person is aggrieved by an order which has taken effect and desires to question its validity on the ground that it is not within the powers of section 53 or 54 or that any of the requirements of this Schedule have not been complied with in relation to it, he may within 42 days from the date of publication of the notice under paragraph 11 make an application to the High Court under this paragraph.
- (2) On any such application the High Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.
- (3) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.

Supplemental

- 13 (1) The Secretary of State may, subject to the provisions of this Schedule, by regulations make such provision as to the procedure on the making, submission and confirmation of orders as appears to him to be expedient.

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(2) In this Schedule—

“council offices” means offices or buildings acquired or provided by the authority or by a local authority;

“local authority” means [^{F3}a non-metropolitan district council], a parish ^{F4} . . . council or the parish meeting of a parish not having a separate parish council [^{F5}but, in relation to Wales, means a community council];

“order” means an order to which the provisions of this Schedule apply;

“prescribed” means prescribed by regulations made by the Secretary of State.

(3) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F3** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(8)**
- F4** Words in Sch. 15 para. 13(2) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 65(12), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F5** Words in Sch. 15 para. 13(2) added (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(12)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

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