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## SCHEDULES

### SCHEDULE 1

#### PROCEDURES FOR MAKING OR CONFIRMING CERTAIN ORDERS AND SCHEMES

##### Modifications etc. (not altering text)

- C1** Sch. 1 excluded (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), **ss. 30(6), 34(7)**(with savings ss. 47(4), 167(2)); [S.I. 1991/2286](#), art. 2(1), **Sch. 1**

#### PART I

##### ORDERS

- 1 Where the Secretary of State proposes to make an order under section 5, 9, 12, 75 or 77 of this Act he shall publish in at least one newspaper circulating in the area in which any road to which the order relates is situated and in the Edinburgh Gazette a notice—
  - (a) stating the general effect of the proposed order;
  - (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected free of charge at all reasonable hours during a period specified in the notice, being not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within the said period, any person may by notice to the Secretary of State object to the making of the order.
- 2 Where an order under the said section 9 or 12 is submitted to the Secretary of State by a local roads authority, that authority shall publish in the manner specified in paragraph 1 above the notice there referred to, and that paragraph shall have effect in relation to a notice published by any such authority as if the references to the draft order and the making of the order were references to the order as submitted to the Secretary of State and the confirmation of the order respectively.
- 3 Not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, the Secretary of State or the local roads authority, as the case may be, shall serve on each person (other than himself or as the case may be themselves) specified in such head or heads of the Table set out at the end of this paragraph as apply in the case of the order in question—
  - (a) a copy of the notice;
  - (b) a copy of the draft order or, as the case may be, the order; and
  - (c) a copy of any relevant map or plan.

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TABLE

*Persons to be served with copies of the documents specified in paragraph 3 of this schedule*

	<i>Nature of order or proposed order</i>	<i>Persons to be served</i>
(i)	Order proposed to be made under section 5, 12 or 75.	[ <sup>F1</sup> Every local authority in whose area] any road to which the proposed order applies is situated.
(ii)	Order proposed to be made under section 5, 9 or 12 which provides for the construction of a bridge over or a tunnel under navigable waters, and order under section 75.	Every navigation authority <sup>F2</sup> . . . concerned with or having jurisdiction over the waters affected or over the area comprising those waters [ <sup>F3</sup> and Scottish Water] .
(iii)	Order proposed to be made under section 12 authorising the carrying out of new works.	[ <sup>F1</sup> Every local authority] on whose area works authorised by the proposed order are to be carried out.
(iv)	Order under section 9 transferring a road from one roads authority to another.	The roads authorities to and from whom the road is to be transferred.
(v)	Order proposed to be made under section 77.	[ <sup>F1</sup> Every local authority in whose area] the bridge or its approaches is situated and every navigation authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters.
(vi)	Order proposed to be made under section 9 or 12 which authorises the stopping up of	The owner and the occupier of the land.

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	a private means of access to land.	
(vii)	Order proposed to be made under section 9 or 12 which authorises the stopping up or diversion of a public road.	[ <sup>F1</sup> Every local authority in whose area] the road is situated, and any statutory undertakers having apparatus under, in, upon, over, along or across the road.
(viii)	Order proposed to be made under section 9 which authorises entry by the special road authority on land.	The occupier of that land.

#### Textual Amendments

- F1** Words in entries (i)(iii)(v)(vii) of the Table in Sch. 1 Pt. I para. 3 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 135(11)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words in entry (ii) of the Table in Sch. 1 Pt. I para. 3 repealed (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71(2), **Sch. 7 para. 14(6)(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F3** Words in entry (ii) of the Table in Sch. 1 Pt. I para. 3 inserted (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71(2), **Sch. 7 para. 14(6)(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

- 4 Where the order provides for the stopping up or diversion of a public road, the Secretary of State shall, not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published, cause a copy of it to be displayed in a prominent position at the ends of so much of any road as is proposed to be stopped up or diverted under the order.
- 5 If before the expiration of the period specified in pursuance of paragraph 1(b) above an objection is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 above, or from any other person appearing to the Secretary of State to be affected, and the objection is not withdrawn, the Secretary of State shall, subject to [<sup>F4</sup> paragraph 6 ] below, cause a local inquiry to be held.

#### Textual Amendments

- F4** Words in Sch. 1 para. 5 substituted (28.12.2007) by **Transport and Works (Scotland) Act 2007 (asp 8)**, s. 30(4), **sch. 2 para. 3(a)**; S.S.I. 2007/516, **art. 2** (with S.S.I. 2007/517, arts. 1(1), 4(2)-(4))

- 6 Except where the objection is made by any person on whom a copy of the notice is required to be served by virtue of paragraph 3 above as read with such one or more of heads (i) to (v) of the Table at the end of that paragraph as apply in the case of the order in question, the Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry under paragraph 5 above is not necessary, dispense with such an inquiry.

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- 7 (1) <sup>F5</sup> ... after considering objections (if any) to the proposed order or, as the case may be, the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may [<sup>F6</sup>—
- (a) make or confirm the order (with or without modifications); or
  - (b) where the order is subject to the affirmative procedure by virtue of section 143A(3) of this Act, lay before the Scottish Parliament a draft statutory instrument containing the order (with or without modifications).]
- [<sup>F7</sup>(1A) Where the Scottish Ministers have published an environmental statement they shall take into consideration—
- (a) that statement; <sup>F8</sup>...
  - [<sup>F9</sup>(b) any opinion on that statement or the project which is expressed in writing by any of the consultation bodies or by any other person and is received by the Scottish Ministers within any period specified for the purpose by them; and
  - (c) where section 20B applies and the EEA State has indicated in accordance with subsection (4) of that section that it wishes to participate in the environmental impact assessment procedure, any opinion on that statement or the project which is expressed in writing by the EEA State, by a member of the public in the EEA State or by any of the authorities referred to in Article 6(1) of the Directive and is received by the Scottish Ministers within any period specified for the purpose by them.]
- (1B) When the Scottish Ministers have decided whether to proceed with the project in relation to which an environmental impact assessment has been made they shall publish their decision together with a statement confirming that they have complied with sub-paragraph (1A) above and shall [<sup>F10</sup>notify the consultation bodies and] make available to the public documents containing—
- (a) the content of the decision and any conditions attached to it;
  - (b) the main reasons and considerations on which the decision is based [<sup>F11</sup>including, if relevant, information about the participation of the public and details of how information, evidence and representations submitted were taken into account] ; <sup>F12</sup>...
  - [
  - <sup>F13</sup>(bb) information regarding the right to challenge the validity of the decision and the procedures for doing so; and]
  - (c) where their decision is to proceed with the project, a description of the main measures which will be taken to avoid, reduce and if possible offset any major adverse effects of the project.
- [ Where—
- <sup>F14</sup>(1BA) (a) the Scottish Ministers publish under sub-paragraph (1B) above a decision to proceed with a project; and
- [<sup>F15</sup>(b) the order giving effect to that decision is subject to the affirmative procedure by virtue of section 143A(3) of this Act,]
- they shall publish together with the decision a statement to the effect that [<sup>F16</sup>the order cannot be made unless the Scottish Parliament, by resolution, approves a draft statutory instrument containing it] .]
- (1C) Any requirement for publication in connection with an environmental impact assessment shall be met by publication in The Edinburgh Gazette and in at least one local newspaper circulating in the area in which the project is situated [<sup>F17</sup>and where the Scottish Ministers use a website for the purpose of giving information to

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the public about projects of a category into which the project in question falls, by publication on that website] .]

[<sup>F18</sup>(1D) Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.]

(2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as he thinks fit) while deferring consideration of the remaining part.

#### Textual Amendments

- F5** Words in Sch. 1 para. 7(1) repealed (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), s. 30(4), [sch. 3](#); [S.S.I. 2007/516](#), art. 2 (with S.S.I. 2007/517, arts. 1(1), 4(2)-(4))
- F6** Words in Sch. 1 para. 7(1) substituted (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order2011 \(S.S.I. 2011/396\)](#), arts. 1, [14\(a\)](#) (with art. 16)
- F7** Sch. 1 para. 7(1A)-(1C) substituted for Sch. 1 para. 7(1A)(1B) (1.8.1999) by [S.S.I. 1999/1](#), [reg. 52](#)
- F8** Word in Sch. 1 para. 7(1A) omitted (1.2.2007) by virtue of [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(a\)](#)
- F9** Sch. 1 para. 7(1A)(b)(c) substituted for Sch. 1 para. 7(1A)(b) (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(a\)](#)
- F10** Words in Sch. 1 para. 7(1B) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(b\)\(i\)](#)
- F11** Words in Sch. 1 para. 7(1B)(b) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(b\)\(ii\)](#)
- F12** Word in Sch. 1 para. 7(1B)(b) omitted (1.2.2007) by virtue of [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(b\)\(iii\)](#)
- F13** Sch. 1 para. 7(1B)(bb) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(b\)\(iii\)](#)
- F14** Sch. 1 para. 7(1BA) inserted (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 24\(4\)\(a\)](#), 30(4); [S.S.I. 2007/516](#), art. 2
- F15** Sch. 1 para. 7(1BA)(b) substituted (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order2011 \(S.S.I. 2011/396\)](#), arts. 1, [14\(b\)\(i\)](#) (with art. 16)
- F16** Words in Sch. 1 para. 7(1BA) substituted (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order2011 \(S.S.I. 2011/396\)](#), arts. 1, [14\(b\)\(ii\)](#) (with art. 16)
- F17** Words in Sch. 1 para. 7(1C) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(c\)](#)
- F18** Sch. 1 para. 7(1D) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, [6\(5\)\(d\)](#)

8 In this Part of this Schedule references to a proposed order or an order proposed to be made include references to an order made by a local roads authority and submitted to the Secretary of State.

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