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SCHEDULES

SCHEDULE 1 **S**

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 II **S**

SCHEMES UNDER SECTIONS 7 AND 75(3)

- 9 Where the Secretary of State proposes to make a scheme under section 7 or 75(3) of this Act, or where a scheme under either of those sections is submitted to the Secretary of State by a local roads authority, the Secretary of State or that authority, as the case may be, shall publish in at least one newspaper circulating in the area in which the road, or as the case may be the site of the bridge or tunnel, to which the scheme relates is situated and in the Edinburgh Gazette a notice—
- (a) stating the general effect of the proposed scheme;
 - (b) specifying a place in the said area where copies of a draft of the scheme, or of the scheme as submitted to the Secretary of State, as the case may be, 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 or confirmation of the scheme.
- 10 Not later than the day on which the said notice is published or, if it is published on two 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 a copy of it (together with a copy of draft scheme or of the scheme, as the case may be, and of any relevant map of plan)—
- (a) on ^{F1}every local authority] in whose area any part of the route of the special road, or as the case may be the site of the bridge or tunnel, is situated; and
 - (b) where the scheme provides for the construction of a bridge over or tunnel under any navigable waters, on
 - ^{F2}(i) every navigation authority ^{F3}. . . concerned with or having jurisdiction over the waters affected or over the area comprising those waters^{F4}, and
 - (ii) Scottish Water.]

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Textual Amendments

- F1** Words in Sch. 1 Pt. II para. 10(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 135(11)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words in Sch. 1 Pt. II para. 10(b) renumbered (1.4.2002) as Sch. 1 Pt. II para. 10(b)(i) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71(2), **Sch. 7 para. 14(6)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F3** Words in Sch. 1 Pt. II para. 10(b) repealed (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71(2), **Sch. 7 para. 14(6)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F4** Sch. 1 Pt. II para. 10(b)(ii) and preceding word inserted (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71(2), **Sch. 7 para. 14(6)(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

- 11 If before the expiration of the period specified in pursuance of paragraph 9(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 10 above or from any other person appearing to him affected by the proposed scheme, and the objection is not withdrawn, the Secretary of State shall, subject to [F5 paragraph 12] below, cause a local inquiry to be held.

Textual Amendments

- F5** Words in Sch. 1 para. 11 substituted (28.12.2007) by **Transport and Works (Scotland) Act 2007 (asp 8)**, s. 30(4), **sch. 2 para. 3(b)**; S.S.I. 2007/516, **art. 2**

- 12 Except where the objection is made by any person on whom notice is required to be served under paragraph 10 above, the Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry under paragraph 11 above is unnecessary, dispense with such an inquiry.

- 13 (1) F6...after considering objections (if any) to the proposed scheme 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 make or confirm the scheme either without modification or subject to such modifications as he thinks fit.

[F7(1A) Where the Scottish Ministers have published an environmental statement they shall take into consideration—

(a) that statement; F8...

[F9(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 [F10 notify the consultation bodies and] make available to the public documents containing—

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- (a) the content of the decision and any conditions attached to it;
 - (b) the main reasons and considerations on which the decision is based [F11including, if relevant, information about the participation of the public and details of how information, evidence and representations submitted were taken into account] ; F12...
 - [information regarding the right to challenge the validity of the decision and the procedures for doing so; and]
 - F13(bb) (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—
- F14(1BA) (a) the Scottish Ministers publish under sub-paragraph (1B) above a decision to proceed with a project; and
 - (b) the statutory instrument giving effect to that decision is to be laid before the Scottish Parliament under section 143A(3)(a) of this Act,
- they shall publish together with the decision a statement to the effect that the instrument cannot come into force until the Scottish Parliament, by resolution, approves 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 [F15and where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, by publication on that website] .]
- [F16(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 scheme 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 the Secretary of State thinks fit) while deferring consideration of the remaining part.

Textual Amendments

- F6** Words in Sch. 1 para. 13(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))
- F7** Sch. 1 para. 13(1A)-(1C) substituted for Sch. 1 para. 13(1A)(1B) (1.8.1999) by [S.S.I. 1999/1](#), [reg. 52](#)
- F8** Word in Sch. 1 para. 13(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. 13(1A)(b)(c) substituted for Sch. 1 para. 13(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. 13(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. 13(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. 13(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\(5\)\(b\)\(iii\)](#)

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- F13** Sch. 1 para. 13(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. 13(1BA) inserted (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 24(4)(b)**, 30(4); [S.S.I. 2007/516](#), art. 2
- F15** Words in Sch. 1 para. 13(1C) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(5)(c)**
- F16** Sch. 1 para. 13(1D) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(5)(d)**

- 14 In this Part of this Schedule “proposed scheme” includes a scheme made by a local roads authority and submitted to the Secretary of State.

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