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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 II

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 or 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}or, where the scheme 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 scheme (with or without modification)].

^{F8}(1A) Where the Scottish Ministers have published an ^{F9}EIA report] they shall take into consideration—

- (a) that ^{F10}report]; ^{F11}...
- ^{F12}(b) any opinion on that ^{F10}report] 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 ^{F13}20F] 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 ^{F10}report] 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 ^{F14}in that State that the State has specified as authorities to be consulted] and is received by the Scottish Ministers within any period specified for the purpose by them.]

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^{F15}(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 they have complied with sub-paragraph (1A) and shall notify the consultation bodies by sending to them copies of, and make available to the public, documents containing—

- (a) a description of the project;
- (b) the terms of the decision;
- (c) the main reasons and considerations on which the decision is based;
- (d) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures;
- (e) a summary of—
 - (i) the environmental information; and
 - (ii) the results of the consultations and information gathered pursuant to section 20C and, where relevant, section 20F, and how those results, in particular comments received from ^{F16}an EEA State pursuant to consultation under section 20F, have been incorporated or otherwise addressed;
- (f) if the decision is to proceed with the project—
 - (i) any conditions to which the decision is subject;
 - (ii) the reasoned conclusion referred to in section 20B(1)(d);
 - (iii) a statement that the Scottish Ministers are satisfied that the reasoned conclusion is still up to date;
 - (iv) a description of any features of the project and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment; and
 - (v) a description of any monitoring measures required under section 20G; and
- (g) information regarding the right to challenge the validity of the decision and the procedures for doing so.]

[Where—

- ^{F17}(1BA) (a) the Scottish Ministers publish under sub-paragraph (1B) above a decision to proceed with a project; and
- (b) ^{F18}a draft of] the statutory instrument giving effect to that decision is to be laid before the Scottish Parliament under section ^{F19}143A(3)] of this Act, they shall publish together with the decision a statement to the effect that the instrument cannot ^{F20}be made unless] the Scottish Parliament, by resolution, approves ^{F21}the draft statutory instrument].]

^{F22}(1BB) [For the purposes of sub-paragraph (1B)(f)(iii) the reasoned conclusion referred to in section 20B(1)(d) is still up to date if the Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the project on the environment.]

^{F23}(1C) Any requirement for publication in connection with an environmental impact assessment shall be met by publication—

- (a) in the Edinburgh Gazette;
- (b) in at least one local newspaper circulating in the area in which the project is situated; and

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- (c) on the website the Scottish Ministers use for the purpose of giving information to the public about projects of a category into which the project in question falls.]]

[^{F24}(1D) Any non-governmental organisation promoting environmental protection and meeting any requirements under the law [^{F25}of any part of the United Kingdom] shall be deemed to have an interest for the purposes of [^{F26}11] of the Directive and rights capable of being impaired for the purposes of [^{F26}11] of the Directive.]

[^{F27}(1E) For the purpose of sub-paragraph (1D) Article 11(1) of the Directive is to be read as if the reference to—

- (a) “Member States” were a reference to “The Scottish Ministers”,
 (b) “a Member State” were a reference to “Scotland”.]

- (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** Words in Sch. 1 para. 13(1) inserted (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\(c\)](#) (with art. 16)
- F8** 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](#)
- F9** Words in Sch. 1 para. 13(1A) substituted (16.5.2017) by [The Roads \(Scotland\) Act 1984 \(Environmental Impact Assessment\) Regulations 2017 \(S.S.I. 2017/137\), regs. 1, 10\(a\)\(i\)](#) (with reg. 12)
- F10** Word in Sch. 1 para. 13(1A) substituted (16.5.2017) by [The Roads \(Scotland\) Act 1984 \(Environmental Impact Assessment\) Regulations 2017 \(S.S.I. 2017/137\), regs. 1, 10\(a\)\(ii\)](#) (with reg. 12)
- F11** 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\(5\)\(a\)](#)
- F12** 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\(5\)\(a\)](#)
- F13** Word in Sch. 1 para. 13(1A) substituted (16.5.2017) by [The Roads \(Scotland\) Act 1984 \(Environmental Impact Assessment\) Regulations 2017 \(S.S.I. 2017/137\), regs. 1, 10\(a\)\(iii\)](#) (with reg. 12)
- F14** Words in Sch. 1 para. 13(1A)(c) substituted (31.12.2020) by [The Environmental Impact Assessment \(Transport\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/415\), regs. 1, 2\(8\)\(e\); 2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F15** Sch. 1 para. 13(1B) substituted (16.5.2017) by [The Roads \(Scotland\) Act 1984 \(Environmental Impact Assessment\) Regulations 2017 \(S.S.I. 2017/137\), regs. 1, 10\(b\)](#) (with reg. 12)
- F16** Word in Sch. 1 para. 13(1B)(e)(ii) substituted (31.12.2020) by [The Environmental Impact Assessment \(Transport\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/415\), regs. 1, 2\(8\)\(f\); 2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F17** 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](#)
- F18** Words in Sch. 1 para. 13(1BA)(b) inserted (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\(d\)\(i\)\(aa\)](#) (with art. 16)
- F19** Word in Sch. 1 para. 13(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\(d\)\(i\)\(bb\)](#) (with art. 16)

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- F20** Words in Sch. 1 para. 13(1BA) substituted (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, **14(d)(ii)** (with art. 16)
- F21** Words in Sch. 1 para. 13(1BA) substituted (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, **14(d)(iii)** (with art. 16)
- F22** Sch. 1 para. 13(1BB) inserted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **10(c)** (with reg. 12)
- F23** Sch. 1 para. 13(1C) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **10(d)** (with reg. 12)
- F24** 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)**
- F25** Words in Sch. 1 para. 13(1D) inserted (31.12.2020) by The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/415), regs. 1, **2(8)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F26** Word in Sch. 1 para. 13(1D) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **10(e)** (with reg. 12)
- F27** Sch. 1 para. 13(1E) inserted (31.12.2020) by The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/415), regs. 1, **2(8)(h)**; 2020 c. 1, Sch. 5 para. 1(1)

- 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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