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SCHEDULES

SCHEDULE 14

PROCEDURE FOR FOOTPATHS AND BRIDLEWAYS ORDERS

Modifications etc. (not altering text)

- C1** Sch. 14 applied (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 2(1), **Sch. Pt. 1** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))

PART I

CONFIRMATION OF ORDERS

- 1 (1) Before an order under section 257 or 258 is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—
- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order;
 - (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 of it may be obtained at a reasonable charge at all reasonable hours; and
 - (c) specifying the time (which must 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 order may be made.
- (2) Subject to sub-paragraphs (6) and (7), 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; and
 - (b) by serving a similar notice on—
 - (i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the ^{M1}Rent Act 1977) of any of that land; and
 - (ii) every council, the council of every ^{F1}. . . parish [^{F2}or community] and the parish meeting of every ^{F1}. . . parish not having a separate council, being a council or parish whose area includes any of that land; and
- ^{F3}(^{ia}) any National Park authority for a National Park which includes any of that land; and
- (iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land; and

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- (iv) every person on whom notice is required to be served in pursuance of sub-paragraph (4); and
- (v) 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 footpath ^[F4], bridleway or restricted byway] as is to be stopped up, diverted or extinguished by the order;
 - (ii) at council offices in the locality of the land to which the order relates; and
 - (iii) at such other places as the authority may consider appropriate.
- (3) In sub-paragraph (2)—
 - “council” means a county council, ^[F5]a county borough council] a district council, a London borough council ^[F6], the London Fire Commissioner, ^[F7]a joint authority established by Part 4 of the Local Government Act 1985, an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009 ^[F8], a combined authority established under section 103 of that Act or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004];
 - “council offices” means offices or buildings acquired or provided by a council or by the council of a parish or community or the parish meeting of a parish not having a separate parish council.
- (4) 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 under section 257 or 258 as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area.
- (5) In sub-paragraph (4) “specified” means specified in the requirement.
- (6) Except where an owner, occupier or lessee is a local authority ^[F9]National Park authority] or statutory undertaker, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i).
- (7) If the Secretary of State gives a direction under sub-paragraph (6) in the case of any land, then—
 - (a) in addition to publication the notice shall be addressed to “the owners and any occupiers” of the land (describing it); and
 - (b) a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.
- (8) Sub-paragraph (2)(b) and (c) and, where applicable, sub-paragraph (7) shall be complied with not less than 28 days before the expiry of the time specified in the notice.
- (9) A notice required to be served by sub-paragraph (2)(b)(i), (ii), (iii) or (v) shall be accompanied by a copy of the order.
- (10) A notice required to be displayed by sub-paragraph (2)(c)(i) 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.

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Textual Amendments

- F1** Words in Sch. 14 para. 1(2)(b)(ii) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. VI**
- F2** Words in Sch. 14 para. 1(2)(b)(ii) inserted (1.10.1995) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(17)(a)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1995/2490, art. 4(1), **Sch. 2**
- F3** Sch. 14 para. 1(2)(b)(iia) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(17)(a)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**
- F4** Words in Sch. 14 para. 1(2)(c)(i) substituted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177, **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- F5** Words in definition of "council" in Sch. 14 para. 1(3) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(17)(b)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F6** Words in Sch. 14 para. 1(3) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by **Policing and Crime Act 2017 (c. 3)**, s. 183(1)(5)(e), **Sch. 2 para. 95**; S.I. 2018/227, **reg. 4(e)**
- F7** Sch. 14 para. 1(3): words in definition of "council" substituted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009 (c. 20)**, ss. 119, 148, 149, **Sch. 6 para. 82(3)**; S.I. 2009/3318, **art. 2**
- F8** Words in Sch. 14 para. 1(3) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by **Policing and Crime Act 2017 (c. 3)**, s. 183(1)(5)(e), **Sch. 1 para. 70**; S.I. 2017/399, **reg. 2, Sch. para. 38**
- F9** Words in Sch. 14 para. 1(6) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(17)(b)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**

Modifications etc. (not altering text)

- C1** Sch. 14 para. 1(3) amended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 5**

Marginal Citations

- M1** 1977 c. 42.

- 2 If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State, themselves confirm the order (but without any modification).
- 3 (1) This paragraph applies where any representation or objection which has been duly made is not withdrawn.
- (2) If the objection is made by a local authority [^{F10}or a National Park authority] the Secretary of State shall, before confirming the order, cause a local inquiry to be held.
- (3) If the representation or objection is made by a person other than a local authority the Secretary of State shall, before confirming the order, either—
- (a) cause a local inquiry to be held; or
- (b) give 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.
- (4) After considering the report of the person appointed under sub-paragraph (2) or (3) to hold the inquiry or hear representations or objections, the Secretary of State may confirm the order, with or without modifications.
- (5) In the case of an order under section 257, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purpose of their undertaking, or over the curtilage

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of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

- (6) Notwithstanding anything in the previous provisions of this paragraph, the Secretary of State shall not confirm an order so as to affect land not affected by the order as submitted to him, except after—
- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which must 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) holding a local inquiry or giving 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) considering the report of the person appointed to hold the inquiry or, as the case may be, to hear representations or objections.
- (7) In the case of an order under section 257, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Textual Amendments

F10 Words in Sch. 14 para. 3(2) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(17)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2(1)**

- 4 (1) A decision of the Secretary of State under paragraph 3 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.
- (2) A decision made by a person so appointed shall be treated as a decision of the Secretary of State.
- (3) 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.
- (4) A direction under sub-paragraph (3) shall—
- (a) state the reasons for which it is given; and
 - (b) 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.
- (5) Where the Secretary of State has appointed a person to make a decision under paragraph 3 the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.
- (6) Where by virtue of sub-paragraph (3) or (5) 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.

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- (7) Regulations under this Act may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.
- 5 (1) The Secretary of State shall not confirm an order under section 257 which extinguishes a right of way over land under, in, on, over, along or across which there is any apparatus belonging to or used by statutory undertakers for the purposes of their undertaking, unless the undertakers have consented to the confirmation of the order.
- (2) Any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.
- (3) The consent of statutory undertakers to any such order shall not be unreasonably withheld.
- (4) Any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by whichever Minister is the appropriate Minister in relation to the statutory undertakers concerned.
- 6 Regulations under this Act may, subject to this Part of this Schedule, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections 257 and 258.

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