



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART X

#### HIGHWAYS

##### *Orders made by Secretary of State*

#### **252 Procedure for making of orders.**

- (1) Before making an order under section 247, 248, 249 or 251 the Secretary of State [<sup>F1</sup>or, as the case may be, the council of a London borough] shall publish in at least one local newspaper circulating in the relevant area, and in the London Gazette, a notice—
  - (a) stating the general effect of the order;
  - (b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the publication of the notice (“the publication date”); and
  - (c) stating that any person may within that period by notice to the Secretary of State [<sup>F2</sup>or, as the case may be, the council of the London borough] object to the making of the order.
- (2) Not later than the publication date, the Secretary of State [<sup>F3</sup>or, as the case may be, the council of the London borough] shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan—
  - (a) on every local authority in whose area any highway or, as the case may be, any land to which the order relates is situated, and
  - [<sup>F4</sup>(aa) on any National Park authority which is the local planning authority for the area in which any highway or, as the case may be, any land to which the order relates is situated, and]
  - (b) on any water, sewerage, hydraulic power or electricity undertakers or [<sup>F5</sup>public gas transporter] having any cables, mains, sewers, pipes or wires laid along, across, under or over any highway to be stopped up or diverted, or, as the case

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may be, any land over which a right of way is proposed to be extinguished, under the order.

- (3) Not later than the publication date, the Secretary of State [<sup>F6</sup>or, as the case may be, the council of the London borough] shall also cause a copy of the notice to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted or, as the case may be, of the right of way proposed to be extinguished under the order.
- (4) If before the end of the period of 28 days mentioned in subsection (1)(b) an objection is received by the Secretary of State [<sup>F7</sup>or, as the case may be, the council of the London borough,] from any local authority [<sup>F8</sup>National Park authority] or undertakers or [<sup>F5</sup>public gas transporter] on whom a notice is required to be served under subsection (2), or from any other person appearing to [<sup>F9</sup>to the Secretary of State or, as the case may be, the council] to be affected by the order, and the objection is not withdrawn, then
- [<sup>F10</sup>(a) in a case where the Secretary of State is proposing to make an order, he shall cause a local inquiry to be held unless subsection (5) applies, or
- (b) in a case where the council of a London borough is proposing to make an order, it shall notify the Mayor of London of the objections and shall cause a local inquiry to be held unless subsection (5A) applies.]
- (5) If, in a case where [<sup>F11</sup>the Secretary of State is proposing to make an order and] the objection is made by a person other than such a local authority or undertakers or [<sup>F5</sup>transporter], the Secretary of State is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary he may dispense with the inquiry.
- [<sup>F12</sup>(5A) In a case where—
- (a) the council of a London borough is proposing to make the order,
- (b) the council has under subsection (4)(b) notified the Mayor of London of the objections, and
- (c) none of the objections notified is made by such a local authority or undertakers or transporter as are mentioned in that subsection,
- the Mayor of London shall decide whether, in the special circumstances of the case, the holding of such an inquiry is unnecessary, and if he decides that it is unnecessary he shall so notify the council which may dispense with the inquiry.]
- (6) Subsections (2) to (5) of section 250 of the <sup>M1</sup>Local Government Act 1972 (local inquiries: evidence and costs) shall apply in relation to an inquiry caused to be held by the Secretary of State [<sup>F13</sup>or the council of a London borough] under subsection (4).
- [<sup>F14</sup>(6A) In their application to an inquiry caused to be held by the council of a London borough—
- (a) subsection (4) of section 250 of the Local Government Act 1972 shall be treated as if—
- (i) for the reference to a Minister there were substituted a reference to the council of a London borough,
- (ii) for the reference to him there were substituted a reference to the council,
- (iii) for the reference to he there were substituted a reference to the council acting with the consent of the Mayor of London, and
- (iv) for the references to the Minister there were substituted references to the council of the London borough, and

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- (b) subsection (5) of that section shall be treated as if—
- (i) for the reference to the Minister there were substituted a reference to the council of a London borough, and
  - (ii) the power to make an order as to the costs of parties were subject to a requirement to act with the consent of the Mayor of London.]
- (7) Where publication of the notice mentioned in subsection (1) takes place on more than one day, the references in this section to the publication date are references to the latest date on which it is published.
- (8) [<sup>F15</sup>Where the Secretary of State is proposing to make an order,] after considering any objections to 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, subject to subsection (9), make the order either without modification or subject to such modifications as he thinks fit.
- [<sup>F16</sup>(8A) Where the council of a London borough is proposing to make an order, after—
- (a) considering any objections to the order which are not withdrawn, and
  - (b) where a local inquiry is held—
    - (i) considering the report of the person who held the inquiry, and
    - (ii) obtaining the consent of the Mayor of London to the making of the order,
- the council may, subject to subsection (9), make the order either without modification or subject to such modification as it thinks fit.]
- (9) Where—
- (a) the order contains a provision requiring any such payment, repayment or contribution as is mentioned in section 247(4)(a); and
  - (b) objection to that provision is duly made by an authority or person who would be required by it to make such a payment, repayment or contribution; and
  - (c) the objection is not withdrawn,
- the order shall be subject to special parliamentary procedure.
- (10) Immediately after the order has been made, the Secretary of State [<sup>F17</sup>or, as the case may be, the council of the London borough] shall publish, in the manner specified in subsection (1), a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours.
- [<sup>F18</sup>(10A) Nothing in subsection (2) shall require the council of a London borough to serve anything on itself.]
- (11) Subsections (2), (3) and (7) shall have effect in relation to a notice under subsection (10) as they have effect in relation to a notice under subsection (1).
- (12) In this section—
- “the relevant area”, in relation to an order, means the area in which any highway or land to which the order relates is situated;
- “local authority” means the council of a county, [<sup>F19</sup>county borough,]district, parish [<sup>F20</sup>, community] or London borough, [<sup>F21</sup>a police authority established under [<sup>F22</sup>section 3 of the Police Act 1996][<sup>F23</sup>the Metropolitan Police Authority]. . . ] a joint authority established by Part IV of the <sup>M2</sup>Local Government Act 1985, [<sup>F24</sup>the London Fire and Emergency Planning Authority] a housing action trust established under Part III of the

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<sup>M3</sup>Housing Act 1988 [<sup>F25</sup>, the Residuary Body for Wales (Corff Gweddilliol Cymru)] and the parish meeting of a <sup>F26</sup>. . . parish not having a separate parish council;

and in subsection (2)—

- (i) the reference to water undertakers shall be construed as including a reference to the National Rivers Authority, and
- (ii) the reference to electricity undertakers shall be construed as a reference to holders of licences under section 6 of the <sup>M4</sup>Electricity Act 1989 who are entitled to exercise any power conferred by paragraph 1 of Schedule 4 to that Act.

### Textual Amendments

- F1** Words in s. 252(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(2)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F2** Words in s. 252(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(2)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F3** Words in s. 252(2) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F4** S. 252(2)(aa) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(7)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F5** Words in s. 252(2)(b)(4)(5) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 18(1)(a)(b)(c)**; S.I. 1996/218, **art. 2**
- F6** Words in s. 252(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F7** Words in s. 252(4) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(5)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F8** Words in s. 252(4) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(7)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F9** Words in s. 252(4) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(5)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F10** S. 252(4)(a)(b) substituted (3.7.2000) for words in s. 252(5) by 1999 c. 29, s. 270, **Sch. 22 para. 7(5)(e)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F11** Words in s. 252(5) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F12** S. 252(5A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(7)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F13** Words in s. 252(6) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(8)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F14** S. 252(6A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(9)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F15** Words in s. 252(8) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(10)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F16** S. 252(8A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(11)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F17** Words in s. 252(10) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(12)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F18** S. 252(10A) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 7(13)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F19** Words in the definition of "local authority" in s. 252(12) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(10)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

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- F20** Words in the definition of "local authority" in s. 252(12) inserted (1.10.1995) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(10)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2490, art. 4(1), **Sch. 2**
- F21** Words in the definition of "local authority" in s. 252(12) inserted (1.10.1994 for specified purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 63**; S.I. 1994/2025, **art. 6(1)(2)(g)** (with art. 6(6)); S.I. 1994/3262, art. 4(1), **Sch.**
- F22** Words in the definition of "local authority" in s. 252(12) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(2)(ze)**
- F23** Words in the definition of "local authority" in s. 252(12) inserted (3.7.2000) by 1999 c. 29, s. 325, **Sch. 27 para. 65** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**
- F24** Words in the definition of "local authority" in s. 252(12) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 57** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(h)**
- F25** Words in the definition of "local authority" in s. 252(12) inserted (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 32** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2))
- F26** Word in the definition of "local authority" in s. 252(12) repealed (8.11.1995) by 1995 c. 44, s. 1(1), **Sch. 1 Pt. VI**

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

- C1** S. 252 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 2(b)**

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**Marginal Citations**

- M1** 1972 c. 70.  
**M2** 1985 c. 51.  
**M3** 1988 c. 50.  
**M4** 1989 c. 29.

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