

Status: Point in time view as at 01/04/1996.

*Changes to legislation: There are currently no known outstanding effects for the
Natural Heritage (Scotland) Act 1991, SCHEDULE 5. (See end of Document for details)*

SCHEDULES

SCHEDULE 5

Section 15.

PROVISIONS AS TO APPLICATIONS FOR, MAKING, COMING INTO OPERATION, AND VALIDITY OF, CONTROL ORDERS

- 1 An application for a control order—
- (a) shall specify the area to which the control order sought by the application is to apply and all such other relevant information as the Secretary of State may from time to time require; and
 - (b) without prejudice to the generality of sub-paragraph (a) above, shall, so far as practicable, include a statement of what [F1SEPA considers] to be the minimum acceptable flow for each such water, as measured at control points described in that statement.

Textual Amendments

- F1** Words in Sch. 5 para. 1(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 96(7)(a) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Commencement Information

- I1** Sch. 5 para. 1 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 2 On making an application for a control order [F2SEPA] shall in two successive weeks publish in at least one newspaper circulating F3 . . . in the proposed control area, and in the Edinburgh Gazette, a notice—
- (a) stating the general effect of the application;
 - (b) specifying a place in the proposed control area where a copy of the application and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days beginning with the date of the first publication of the notice; and
 - (c) stating that, within the said period, any person may by notice in writing to the Secretary of State object to the application.

Textual Amendments

- F2** Words in Sch. 5 para. 2 substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 96(7)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F3** Words in Sch 5 para. 2 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 96(7)(b), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3(xxvii)

Commencement Information

- I2** Sch. 5 para 2 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

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- 3 (1) Not later than the date on which a notice is first published in accordance with paragraph 2 above, [F4SEPA] shall serve a copy of it (together with a copy of the application and of any relevant map or plan) on—
- (a) every local authority whose area is comprised wholly or partly in the proposed control area;
 - (b) any statutory body the exercise of whose functions may be affected by the control order if made; and
 - (c) any body or association appearing to [F4SEPA] to represent persons who in [F5:its] opinion may be affected by the control order if made.
- (2) In this paragraph the expression “statutory body” means any body exercising functions conferred on it by or under any enactment.

Textual Amendments

- F4** Words in Sch. 5 para. 3(1)(c) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 96(7)(c) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F5** Word in Sch. 5 para. 3(1)(c) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 96(7)(c) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Commencement Information

- I3** Sch. 5 para. 3 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 4 Not later than the date on which the said notice is first published, [F6SEPA] shall cause a copy of it to be displayed in at least one prominent position in the proposed control area.

Textual Amendments

- F6** Words in Sch. 5 para. 4 substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 96(7)(d) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Commencement Information

- I4** Sch. 5 para. 4 wholly in force at 1.10.1991 see s. 28(2) S.I. 1991/2187, art. 3, Sch.

- 5 If before the expiration of the said period of twenty-eight days an objection is received by the Secretary of State from any person referred to in paragraph 3(1) above, or from any other person appearing to the Secretary of State to be likely to be affected by the proposed control order or, as the case may be, to represent persons likely to be so affected, and the objection is not withdrawn, the Secretary of State shall cause a public local inquiry to be held.

Commencement Information

- I5** Sch. 5 para. 5 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 6 The provisions of subsection (2) to (8) of section 210 of the ^{M1}Local Government (Scotland) Act 1973 (which relate to the holding of local inquiries) shall apply to a public local inquiry held under paragraph 5 above as they apply to local inquiries held under that section.

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Commencement Information

I6 Sch. 5 para. 6 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

Marginal Citations

M1 1973 c. 65.

- 7 After considering any objections to the application which are not withdrawn and, where a public local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make a control order as proposed in the application or, subject to paragraph 8 below, with such modifications to these proposals as he thinks fit, or may refuse to make a control order.

Commencement Information

I7 Sch. 5 para. 7 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 8 The Secretary of State shall not make a control order with any modification to the proposals in the application unless he has first—
- (a) intimated the terms of the modification to the parties referred to in paragraph 3 above and on any other person who in the Secretary of State's opinion may be affected by the modification;
 - (b) given them an opportunity to make representations against the modification; and
 - (c) considered any representations so made.

Commencement Information

I8 Sch. 5 para. 8 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 9 If the Secretary of State makes a control order [^{F7}SEPA] shall publish, as described in paragraph 2 above in relation to a notice under that paragraph, 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, and paragraphs 3 and 4 above shall apply to any such notice as they apply to a notice required to be published by the said paragraph 2.

Textual Amendments

F7 Words in Sch. 5 para. 9 substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 96(7)(d) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Commencement Information

I9 Sch. 5 para. 9 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 10 If any person affected by a control order desires to question the validity of it, or of any provision contained in it, on the grounds that it is not within the powers of Part II of this Act, or on the grounds that any requirement of that Part has not been complied with in relation to the making of the order, he may, within the period of six weeks beginning with the date on which the notice required by paragraph 9

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above is first published, make an application to the Court of Session, and on any such application the Court—

- (a) may suspend the operation of the control order, or of any provision contained in it, either generally, or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the control order, or any provision contained in it, is not within the powers of Part II of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement, may quash the order, or any provision contained in it, either generally or in so far as it affects any property of the applicant.

Commencement Information

I10 Sch. 5 para. 10 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 11 Subject to the provisions of paragraph 10 above, a control order shall not, either before or after it has been made, be questioned in any legal proceedings, and shall become operative on the date on which the notice required by paragraph 9 above is first published.

Commencement Information

I11 Sch. 5 para. 11 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

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