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SCHEDULES

SCHEDULE 2 **S**

Section 8(6).

PROVISIONS AS TO CONTROL SCHEMES

PART I **S**

PROCEDURE FOR MAKING CONTROL SCHEMES

- 1 Where [^{F1}SNH][^{F2}decides] to make a control scheme [^{F3}it] shall—
- (a) serve on every owner and every occupier of land on whom the scheme proposes to impose any requirement—
 - (i) a copy of the said scheme, together with
 - (ii) a notice stating that any such owner or occupier may, within twenty-eight days of the service of the notice, object to the Secretary of State in such manner as may be specified in the notice to the scheme or to any provision contained in it; and
 - (b) publish in [^{F4}such manner as SNH thinks fit] a notice—
 - (i) stating that a control scheme has been prepared,
 - (ii) describing the control area,
 - (iii) naming a place ^{F5}... where a copy of the control scheme and of the map referred to in it may be inspected at all reasonable hours, and
 - (iv) stating that any person may, within twenty-eight days of the first publication of such notice, object to the Secretary of State in such a manner as may be specified in the notice to the control scheme or to any provision contained in it.

Textual Amendments

- F1** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.
- F2** Word in Sch. 2 para. 1 substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 27\(a\)](#); S.S.I. 2010/221, art. 3(2), Sch.
- F3** Word in Sch. 2 para. 1 substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 27\(b\)](#); S.S.I. 2010/221, art. 3(2), Sch.
- F4** Words in Sch. 2 para. 1(b) substituted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 28\(6\)\(a\)\(i\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F5** Words in Sch. 2 para. 1(b)(iii) repealed (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 28\(6\)\(a\)\(ii\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

- 2 If no objection is duly made under paragraph 1 above or if all objections so made are withdrawn, the Secretary of State may confirm the control scheme either in the form submitted to him or, subject to paragraph 4 below, with modifications.

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- 3 If any objection duly made under paragraph 1 above is not withdrawn, the Secretary of State [^{F6}—
 - (a) must consider the objection, and
 - (b) may] confirm the scheme either in the form submitted to him or, subject to paragraph 4 below, with modifications.

Textual Amendments

F6 Words in Sch. 2 para. 3 substituted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 28(6)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

- 4 A control scheme shall not be confirmed with any modification unless ^{F7}...—
 - (a) every—
 - (i) person served with a copy of the scheme by virtue of paragraph 1 above has been served with notice of the proposal to make the modification, and
 - (ii) other person on whom the modification, if made, would impose a requirement, has been served with a notice of the proposal to make the modification along with a copy of the said scheme,
 and either has consented to it or has not, before the expiry of fourteen days from the service of the notice, notified the Secretary of State in writing that he objects to it ^{F8}...
 - ^{F8}(b)

Textual Amendments

F7 Word in Sch. 2 para. 4 repealed (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 28(6)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

F8 Sch. 2 para. 4(b) and preceding word repealed (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 28(6)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

PART II S

PROCEDURE FOR VARYING OR REVOKING CONTROL SCHEMES

- 5 On the application of [^{F1}SNH], the Secretary of State may make a scheme varying a control scheme or may revoke a control scheme.

Textual Amendments

F1 Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010](#) (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.

- 6 Before making any such variation or revocation the Secretary of State shall—
 - (a) serve on every owner and every occupier of land on whom the control scheme has imposed any requirement or would, if varied as proposed, impose any requirement—

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- (i) a draft of the scheme varying the control scheme or, as the case may be, an intimation of the proposed revocation, together with
 - (ii) a notice stating that any such owner or occupier may, within twenty-eight days of the service of the draft scheme or the intimation, as the case may be, object to the Secretary of State in such a manner as may be specified in the notice to the variation or revocation of the control scheme; and
- (b) publish in [^{F9}such manner as the Scottish Ministers think fit] a notice—
- (i) stating that the control scheme is to be varied or revoked, and
 - (ii) stating that any person may, within twenty-eight days of the first publication of such notice, object in such manner as may be specified in the notice to the making of the variation or revocation, and
 - (iii) naming, in the case of any such variation, a place ^{F10}... where a copy of the scheme as proposed to be varied and any map referred to in it may be inspected at all reasonable hours.

Textual Amendments

F9 Words in Sch. 2 para. 6(b) substituted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. [28\(6\)\(d\)\(i\)](#), [43\(1\)](#) (with s. [41\(1\)](#)); S.S.I. 2011/433, art. [2\(1\)\(f\)](#)

F10 Words in Sch. 2 para. 6(b)(iii) repealed (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. [28\(6\)\(d\)\(ii\)](#), [43\(1\)](#) (with s. [41\(1\)](#)); S.S.I. 2011/433, art. [2\(1\)\(f\)](#)

- 7 If no objection is duly made under paragraph 6 above or if all objections so made are withdrawn, the Secretary of State may vary or revoke the control scheme, as the case may be.
- 8 If any objection duly made under paragraph 6 above is not withdrawn, the Secretary of State [^{F11}—
- (a) must consider the objection, and
 - (b) may] make the variation, either in the form of the draft or with modifications, or the revocation, as the case may be.

Textual Amendments

F11 Words in Sch. 2 para. 8 substituted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. [28\(6\)\(e\)](#), [43\(1\)](#) (with s. [41\(1\)](#)); S.S.I. 2011/433, art. [2\(1\)\(f\)](#)

- 9 A variation of a control scheme shall not be made with any modification unless ^{F12}...—
- (a) every—
 - (i) person served with a copy of the draft scheme by virtue of paragraph 6 above has been served with notice of the proposal to make the modification, and
 - (ii) other person on whom the modification, if made, would impose a requirement has been served with a notice of the proposal to make the modification along with a copy of the said draft scheme,

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and either has consented to it or has not, before the expiry of fourteen days from the service of the notice, notified the Secretary of State in writing that he objects to it ^{F13} ...

^{F13}(b)

Textual Amendments

- F12** Word in Sch. 2 para. 9 repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(f)(i), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F13** Sch. 2 para. 9(b) and preceding word repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(f)(ii), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

PART III S

GENERAL PROCEDURAL PROVISIONS

10 Notwithstanding anything in paragraphs 3 or 8 above, the Secretary of State may require any person who has made an objection to state in writing the grounds for it, and may disregard the objection for the purposes of this Schedule if he is satisfied that the objection is frivolous.

^{F14}11

Textual Amendments

- F14** Sch. 2 para. 11 repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(g), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

PART IV S

PROVISIONS AS TO THE VALIDITY OF CONTROL SCHEMES
AND OF VARIATIONS AND REVOCATIONS OF SUCH SCHEMES

12 On confirming a control scheme or on varying or revoking such a scheme the Secretary of State shall forthwith—

- (a) serve on every person on whom a notice was required to be served under any of the following provisions—
 - (i) sub-paragraph (a) of paragraph 1 above;
 - (ii) sub-paragraph (a) of paragraph 4 above;
 - (iii) sub-paragraph (a) of paragraph 6 above;
 - (iv) sub-paragraph (a) of paragraph 9 above,
 a notice stating that the scheme has been confirmed or, as the case may be, that a variation or revocation of such a scheme has been made;
- (b) publish in [^{F15}such manner as the Scottish Ministers think fit] a notice—
 - (i) stating that the scheme has been confirmed or varied or revoked, as the case may be, and

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- (ii) naming a place ^{F16}... where a copy of the scheme or, as the case may be, the scheme as varied, and of any maps referred to in the scheme, may be inspected at all reasonable hours.

Textual Amendments

F15 Words in Sch. 2 para. 12(b) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(h)(i), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

F16 Words in Sch. 2 para. 12(b)(ii) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(h)(ii), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

- 13 (1) Subject to sub-paragraphs (2) [^{F17}to (4)] below, a control scheme or any variation or revocation of such a scheme shall not at any time be questioned in any proceedings whatsoever.

[^{F18}(2) Any owner or occupier of land who is aggrieved by—

- (a) a decision of the Scottish Ministers to—
(i) confirm a control scheme,
(ii) make a scheme varying a control scheme, or
(iii) revoke a control scheme, or

(b) the terms or conditions of such a scheme,
may appeal to the Scottish Land Court.]

[^{F18}(3) An appeal under sub-paragraph (2) must be lodged not later than 28 days after the date of publication of the notice referred to in paragraph 12(b).

(4) The Scottish Land Court must determine an appeal under sub-paragraph (2) on the merits rather than by way of review and may do so by—

- (a) affirming the control scheme,
(b) directing the Scottish Ministers to revoke the scheme,
(c) making such other order as it thinks fit.]

Textual Amendments

F17 Words in Sch. 2 para. 13(1) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(i)(i), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

F18 Sch. 2 para. 13(2)-(4) substituted for Sch. 2 para. 13(2)(3) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 28(6)(i)(ii), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

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