

SCHEDULES

SCHEDULE 2

Section 8(6).

PROVISIONS AS TO CONTROL SCHEMES

PART I

PROCEDURE FOR MAKING CONTROL SCHEMES

- 1 Where the Commission decide to make a control scheme they 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 two successive weeks in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice—
 - (i) stating that a control scheme has been prepared,
 - (ii) describing the control area,
 - (iii) naming a place within the district 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.
- 2 If no objection is duly made under paragraph 1 above or if all objections so made are withdrawn, the Secretary of State may confirm the control scheme either in the form submitted to him or, subject to paragraph 4 below, with modifications.
- 3 If any objection duly made under paragraph 1 above is not withdrawn, the Secretary of State shall, before deciding whether to confirm the control scheme, cause a public inquiry to be held, and after considering the objection and the report of the person who held the inquiry may confirm the scheme either in the form submitted to him or, subject to paragraph 4 below, with modifications.
- 4 A control scheme shall not be confirmed with any modification unless either—
 - (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

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- (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; or
- (b) the modification arises from representations made at an inquiry held under paragraph 3 above or from the findings or recommendations of the person holding that inquiry, and every person in respect of whom the modification, if made, would vary or impose a requirement has been served with a copy of the scheme as mentioned in sub-paragraph (a) above and been afforded an opportunity to appear and be heard at the inquiry.

PART II

PROCEDURE FOR VARYING OR REVOKING CONTROL SCHEMES

- 5 On the application of the Commission, the Secretary of State may make a scheme varying a control scheme or may revoke a control scheme.
- 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—
 - (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 two successive weeks in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated 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 within the district 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.
- 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 shall, before deciding whether to make the variation or revocation as the case may be, cause a public inquiry to be held, and after considering the objection and the report of the person who held the inquiry may make the variation, either in the form of the draft or with modifications, or the revocation, as the case may be.

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- 9 A variation of a control scheme shall not be made with any modification unless either—
- (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,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; or
 - (b) the modification arises from representations made at an inquiry held under paragraph 8 above or from the findings or recommendations of the person holding that inquiry, and every person in respect of whom the modification, if made, would vary or impose a requirement has been served with a copy of the draft scheme as mentioned in sub-paragraph (a) above and been afforded an opportunity to appear and be heard at the inquiry.

PART III

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.
- 11 The provisions of subsection (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (which relate to the holding of local inquiries) shall apply in relation to a public local inquiry held under paragraph 3 or 8 above as they apply in relation to local inquiries held under the said section 210.

PART IV

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 the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice—

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- (i) stating that the scheme has been confirmed or varied or revoked, as the case may be, and
 - (ii) naming a place within the district 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.
- 13 (1) Subject to sub-paragraphs (2) and (3) below, a control scheme or any variation or revocation of such a scheme shall not at any time be questioned in any proceedings whatsoever.
- (2) Any person aggrieved by a control scheme or by any variation or revocation of such a scheme may apply, within six weeks from the date of the first publication of the notice referred to in sub-paragraph (b) of paragraph 12 above, to the Court of Session for the purpose of questioning its validity on the ground that—
 - (a) it is not within the powers of this Act; or
 - (b) any requirement of this Act has not been complied with.
- (3) Where any such application is duly made the Court may, where it is satisfied that—
 - (a) the scheme or any variation or revocation of such a scheme is not within the powers of this Act; or
 - (b) the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act,quash the scheme or any such variation or revocation, either generally or in so far as it affects the applicant.