

SCHEDULES

SCHEDULE 18

PROCEDURE IN CONNECTION WITH ORDERS RELATING TO FOOTPATHS AND BRIDLEWAYS

PART I

CONFIRMATION OF ORDERS

- 1 (1) Before an order under section 199 or 203(1)(b) of this Act 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 at all reasonable hours ; and
 - (c) specifying the time (not being less than twenty-eight 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-paragraph (3) of this paragraph, the notice to be given under sub-paragraph (1) of this paragraph shall be given—
 - (a) by publication in the Edinburgh Gazette and 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 like 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 Rent (Scotland) Act 1971) of any of that land ;
 - (ii) every county or town council whose area includes any of that land ;
 - (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
 - (iv) any person named in the order by virtue of section 199(2)(d) of this Act; and
 - (c) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up, diverted or extinguished by virtue of the order.
- (3) Except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i) of this paragraph ; but if he so directs in the case of any land, then in addition to publication the notice shall be

addressed to "the owners and any occupiers" of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

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) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming the order, if the objection is made by a local authority, cause a local inquiry to be held, and in any other case either—

- (a) cause a local inquiry to be held ; or
- (b) afford to 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, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm the order, with or without modifications:

Provided that in the case of an order under section 199 of this Act, 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 of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(2) Notwithstanding anything in the foregoing 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 (not being less than twenty-eight 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 affording to 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 to hear representations or objections as the case may be;

and, in the case of an order under section 199 of this Act, 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.

4 (1) The Secretary of State shall not confirm an order under section 199 of this Act 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 ; and 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.

(2) The consent of statutory undertakers to any such order shall not be unreasonably withheld ; and 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.

- 5 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 199 and 203(1)(b) of this Act.