

SCHEDULES

SCHEDULE 1

Articles 12(4), 14(4), 15(7), 16(2), 29(5).

ACCESS ORDERS AND PUBLIC PATH ORDERS

Making and confirmation

1.—(1) Before an order to which this Schedule applies is submitted to the Department for confirmation or (except in the case of an access order) is confirmed as an unopposed order, the district council 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 district in which the land to which the order relates is situated where a copy of the order may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and
- (c) specifying the time (which shall not be less than 28 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) Before the Department makes a public path extinguishment order or a public path diversion order, the Department shall prepare a draft of the order and shall give notice—

- (a) stating that the Department proposes to make the order and the general effect of it,
- (b) naming a place in the district in which the land to which the order relates is situated where a copy of the draft order may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and
- (c) specifying the time (which shall not be less than 28 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 draft order may be made.

(3) The notices to be given under sub-paragraph (1) or (2) shall be given—

- (a) by publication in at least one local newspaper circulating in the locality in which the land to which the order relates is situated;
- (b) by serving a like notice on—
 - (i) every owner, lessee and occupier of any of that land (subject to the provisions of sub-paragraph (4));
 - (ii) every district council whose district includes any of that land;
 - (iii) such other bodies as may be prescribed or as the district council or, as the case may be, the Department may consider appropriate; and
- (c) by causing a copy of the notice to be displayed in a prominent position—
 - (i) at the ends of so much of the public path as is created, extinguished or diverted by the order;
 - (ii) at the council offices in the locality in which the land to which the order relates is situated; and

(iii) at such other places as the district council or, as the case may be, the Department may consider appropriate.

(4) If, after reasonable inquiry has been made, it appears that it is not practicable to ascertain the name or address of an owner, lessee or occupier of any land to which an order relates, the notice required to be served on him by sub-paragraphs (3) (b) (i) may be served by addressing the notice to “The owners and any occupiers” of the land (describing it) and affixing a copy or copies of the notice to some conspicuous object or objects on the land.

2.—(1) If no representations or objections are duly made, or if any so made are withdrawn then—

- (a) the Department may, if it thinks fit, confirm or make the order, as the case may be, with or without modifications;
- (b) the district council may, except in the case of an access order, instead of submitting the order to the Department, confirm the order without any modification.

(2) If any representation or objection duly made is not withdrawn, the Department shall, before confirming or making the order,—

- (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 Department for that purpose,

and after considering the report of the person appointed to hold the inquiry or to hear representations or objections, the Department may confirm or make the order, as the case may be, with or without modifications.

(3) Notwithstanding anything in sub-paragraph (1) or (2), the Department shall not confirm or make an order so as to affect land not affected by the order as submitted or the draft order except after—

- (a) giving such notice as appears to the Department to be requisite of its proposal to modify the order, specifying the time (which shall not be less than 28 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 Department 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.

3. The Department may, subject to paragraphs 1 and 2, by regulations make such provision as to the procedure on the making, submission and confirmation of orders to which this Schedule applies as appears to the Department expedient.

Validity and date of operation

4.—(1) As soon as may be after an order to which this Schedule applies has been confirmed or made by the Department, or confirmed by the district council as an unopposed order, the Department or the district council, as the case may be, shall publish, in the manner required in relation to the class of order in question by paragraph 1, a notice in the prescribed form describing the general effect of the order, stating that it has been confirmed or made, and naming a place where a copy of the order as confirmed or made may be inspected free of charge and copies thereof may be obtained at a reasonable charge at all reasonable hours, and—

- (a) shall serve a like notice on any persons on whom notices were required to be served under paragraph 1 (3) (b) or (4); and
- (b) shall cause like notices to be displayed in the like manner as the notices required to be displayed under paragraph 1 (3) (c);

but no such notice need be served on a person unless he has sent to the district council or the Department (according as the notice would require to be served by the district council or by the Department) a request in that behalf specifying an address for service.

(2) A notice required to be served by sub-paragraph (1) (a), other than one required to be served by paragraph 1 (3) (b) (iii), shall be accompanied by a copy of the order as confirmed or made.

(3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the district council shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served by paragraph 1 (3) (b) or (4).

5.—(1) If a person aggrieved by an order to which this Schedule applies desires to question the validity of the order, or of any provision contained in the order, on the ground that it is not within the powers of this Order or on the ground that any requirement of this Order or of regulations made under this Order has not been complied with in relation to the order, he may, within six weeks from the date on which the notice required by paragraph 4 is first published, make an application for the purpose to the county court.

(2) On any such application the court—

- (a) may by interim order suspend the operation of the order, or of any provision contained in the order, 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—
 - (i) that the order or any provision contained in the order is not within the powers of this Order, or
 - (ii) that the interests of the applicant have been substantially prejudiced by failure to comply with any requirement of this Order or of regulations made under this Order,may quash the order or any provision contained in the order, either generally or in so far as it affects any property of the applicant.

6. Subject to paragraph 5, an order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever and shall become operative on the date on which the notice required by paragraph 4 is first published, or on such later date as may be specified in the order.

Variation and revocation

7.—(1) In relation to an order to which this Schedule applies, section 17(2) of the Interpretation Act (Northern Ireland) 1954 shall have effect subject to sub-paragraphs (2) and (3).

(2) Except in the case of an access order, an order to which this Schedule applies confirmed by the Department or confirmed as an unopposed order by the district council may, in either case, be revoked or varied by a subsequent order confirmed the other way.

(3) Without prejudice to the making of a new access order, an access order shall not be varied so as to comprise land not comprised in the original order.

Changes to legislation:

There are currently no known outstanding effects for the The Access to the Countryside (Northern Ireland) Order 1983, SCHEDULE 1.