

SCHEDULE

Section 1.

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

- 1 An application for a control order—
 - (a) shall specify all streams or localities to which the control order sought by the application would relate and all such other relevant information as the Secretary of State may from time to time require ; and
 - (b) without prejudice to the foregoing generality, after a date to be appointed by the Secretary of State, shall, so far as practicable, include a statement of what the river purification board concerned consider to be the minimum acceptable flows for each such stream, as measured at control points described in that statement.
- 2 On making an application for a control order the river purification board concerned shall in two successive weeks publish in at least one local newspaper circulating in their area and in the area to which the control order would relate, and in the Edinburgh Gazette, a notice—
 - (a) stating the general effect of the application ;
 - (b) specifying a place in the said 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 28 days from 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.
- 3 (1) Not later than the date on which the said notice is first published as aforesaid, the river purification board shall serve a copy thereof (together with a copy of the application and of any relevant map or plan) on the following-
 - (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 ;
 - (c) any body or association appearing to the river purification board to represent persons who in their opinion may be affected by the control order if made ; and
 - (d) every person known to the river purification board to have any interest in any land to which the control order applied for would relate:

Provided that where it appears to the Secretary of State, from representations made to him by the board, that compliance with head (d) of this sub-paragraph would be unduly onerous, it shall be sufficient compliance if the board, having submitted proposals in this regard to the Secretary of State, take such steps as he may direct as respects service of the said copy documents upon such of the persons referred to in the said head (d) as in his opinion may be materially affected by the control order if made, and as respects further publication of those documents.

 - (2) In this paragraph the expression " statutory body" means any body exercising functions conferred on it by or under any enactment.
- 4 Not later than the date on which the said notice is first published as aforesaid, the river purification board shall cause a copy thereof to be displayed in a prominent position in the area to which the control order applied for would relate.

- 5 If before the expiration of the said period of 28 days an objection is received by the Secretary of State from any party on whom a copy of the said notice is required by paragraph 3 of this Schedule to be served, or from any other party 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.
- 6 The provisions of subsections (2) to (9) of section 355 of the Local Government (Scotland) Act 1947 (which relate to the holding of local inquiries) shall apply in relation to a public local inquiry held under the foregoing paragraph as they apply in relation to local inquiries held under the said section 355.
- 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 with such modifications to these proposals as (subject to the next following sub-paragraph) he thinks fit, or may refuse to make a control order:
- Provided that 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 on whom a copy of the notice mentioned in paragraph 3 of this Schedule is required by that paragraph to be served 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 there-aneant; and
 - (c) considered any representations so made.
- 8 The power to make a control order shall be exercisable by statutory instrument and shall include power to vary or revoke any control order by a subsequent control order.
- 9 If the Secretary of State makes a control order the river purification board shall publish in the manner prescribed by paragraph 2 of this Schedule 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 of this Schedule shall apply to any such notice as they apply to a notice required to be published by the said paragraph 2.
- 10 If any person aggrieved by a control order desires to question the validity thereof, or of any provision contained therein, on the grounds that it is not within the powers of this Act, or on the grounds that any requirement of this Act has not been complied with in relation to the making of the order, he may, within six weeks from the date on which the notice required by the last foregoing paragraph 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 therein, 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 therein, is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the order, or any provision contained therein, either generally or in so far as it affects any property of the applicant.
- 11 Subject to the provisions of the last foregoing paragraph, a control order shall not, either before or after it has been made, be questioned in any legal proceedings

whatsoever, and shall become operative on the date on which the notice required by paragraph 9 of this Schedule is first published.