

## SCHEDULES

### SCHEDULE 4

Sections 41 and 45.

#### PROCEDURE FOR DETERMINATION BY ROADS AUTHORITY OF CERTAIN QUESTIONS IN CONNECTION WITH CATTLE-GRIDS

- 1 (1) Before determining, under section 41 or 45 of this Act, the question—
- (a) whether it is expedient to place any part of a cattle-grid, or provide a by-pass, on any such land not forming part of a road and not belonging to the roads authority as is mentioned in subsection (4) of the said section 41 ;
  - (b) whether it is expedient to provide a by-pass along any part of a road ; or
  - (c) whether the purpose for which a right to instal gates is exercisable will be adequately achieved by the provision of a cattle-grid,
- the authority shall comply with the requirements of sub-paragraph (2) below.
- (2) The requirements referred to in sub-paragraph (1) above are that the authority shall—
- (a) publish in two successive weeks in one or more newspapers circulating in the area where the cattle-grid is to be, or has been, provided a notice—
    - (i) stating generally the question for determination ;
    - (ii) naming a place within the said area where a copy may be inspected free of charge at all reasonable hours of such plans as appear, or other descriptive matter as appears, to the authority to be requisite for enabling the nature of the question to be understood ; and
    - (iii) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which and the manner in which representations may be made to the authority ; and
  - (b) display a like notice in a prominent position at the place where the cattle-grid is to be or has been provided.
- 2 If no representation is duly made under paragraph 1 above, or every representation so made is withdrawn, the authority may proceed to determine the question.
- 3 (1) Where a representation is duly made as aforesaid and not withdrawn the following provisions of this paragraph shall have effect.
- (2) Where the authority is not the Secretary of State, they shall forward the representation to him, together with their observations thereon and their proposals, in the light of the representation, for determining the question.
  - (3) The Secretary of State shall consider any representations received by him (and, where the authority is not the Secretary of State, their observations and proposals forwarded to him as aforesaid) and shall either cause a local inquiry to be held or afford to any person by whom a representation has been duly made and not withdrawn and, where the authority is not the Secretary of State, to that authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (4) After the Secretary of State has considered the report of the person who held the inquiry under sub-paragraph (3) above, or of the person appointed under that sub-paragraph, as the case may be—
- (a) the Secretary of State may, where he is the roads authority, proceed to determine the question;
  - (b) where he is not the roads authority, the authority may determine the question in the affirmative if the Secretary of State consents, but not otherwise, and subject to compliance with any conditions subject to which his consent is given.
- (5) Notwithstanding anything in sub-paragraph (3) above, except where a representation is made by a roads authority other than the Secretary of State, the Secretary of State may, if satisfied that in the special circumstances of the case the holding of a local inquiry or the affording to the person making such representation as aforesaid of an opportunity to be heard by a person appointed by the Secretary of State is unnecessary, proceed without compliance with the provisions of the said sub-paragraph (3).
- (6) As soon as may be after the determination of the question\* a notice of the determination shall be sent by the Secretary of State to any person by whom a representation has been made under the foregoing provisions of this Schedule.
- (7) Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (procedure for holding local inquiries) shall apply to a local inquiry held under sub-paragraph (3) above as they apply to the inquiries mentioned in subsection (1) of the said section 210.
- 4 For the purpose of displaying a notice as required by paragraph 1 of this Schedule, the roads authority may, in the road or on adjoining land (whether or not belonging to the authority) erect and maintain posts or boards or affix a notice to any building or structure; but the powers conferred by this paragraph shall not be exercised on occupied land adjoining the road except with the consent of the occupier.
- 5 The Secretary of State may make regulations for securing that proceedings required by the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to be taken in respect of the compulsory acquisition of land under section 106 of this Act may be taken concurrently (so far as practicable) with proceedings required to be taken under the foregoing provisions of this Schedule.
- 6 In relation to the exercise by a local roads authority of functions of the Secretary of State delegated to them under section 4 of this Act, the foregoing provisions of this Schedule shall apply as if they, and not the Secretary of State, were the roads authority.