

## SCHEDULES

### SCHEDULE 12

#### NITRATE SENSITIVE AREA ORDERS

##### PART II

##### ORDERS CONTAINING MANDATORY PROVISIONS

###### *Publication of proposal for order containing mandatory provisions*

- 3 (1) This paragraph applies where the relevant Minister proposes to make an order under section 94 of this Act which—
- (a) makes or modifies any such provision as is authorised by subsection (3)(a) of that section; and
  - (b) in doing so, contains provision which is not of one of the following descriptions, that is to say—
    - (i) provision reproducing existing provisions without modification and in relation to substantially the same area; and
    - (ii) provision modifying any existing provisions so as to make them less onerous.
- (2) The relevant Minister shall, before making any such order as is mentioned in subparagraph (1) above—
- (a) publish a notice with respect to the proposed order, at least once in each of two successive weeks, in one or more newspapers circulating in the locality in relation to which the proposed order will have effect;
  - (b) not later than the date on which that notice is first published, serve a copy of the notice on—
    - (i) the Authority;
    - (ii) every local authority and water undertaker whose area includes the whole or any part of that locality; and
    - (iii) in the case of an order containing any such provision as is authorised by section 94(3)(b) of this Act, such owners and occupiers of agricultural land in that locality as appear to the relevant Minister to be likely to be affected by the obligations in respect of which payments are to be made under that provision;
- and
- (c) publish a notice in the London Gazette which—
    - (i) names every local authority on whom a notice is required to be served under this paragraph;
    - (ii) specifies a place where a copy of the proposed order and of any relevant map or plan may be inspected; and

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(iii) gives the name of every newspaper in which the notice required by virtue of paragraph (a) above was published and the date of an issue containing the notice.

- (3) The notice required by virtue of sub-paragraph (2)(a) above to be published with respect to any proposed order shall—
- (a) state the general effect of the proposed order;
  - (b) specify a place where a copy of the proposed order, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of forty-two days beginning with the date of the first publication of the notice; and
  - (c) state that any person may, within that period, by notice to the Secretary of State or, as the case may be, to one of the Ministers object to the making of the order.

*Supply of copies of proposed orders*

- 4 The Secretary of State and, in a case where he is proposing to join in making the order, the Minister shall, at the request of any person and on payment by that person of such charge (if any) as the Secretary of State or the Minister may reasonably require, furnish that person with a copy of any proposed order of which notice has been published under paragraph 3 above.

*Modifications of proposals*

- 5 (1) Where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above and the period of forty-two days mentioned in sub-paragraph (3)(b) of that paragraph has expired, the relevant Minister may—
- (a) make the order either in the proposed terms or, subject to sub-paragraph (2) below (but without any further compliance with paragraph 3 above), in those terms as modified in such manner as he thinks fit; or
  - (b) decide not to make any order.
- (2) The relevant Minister shall not make such a modification of a proposed order of which notice has been so published and served as he considers is likely adversely to affect any persons unless he has given such notices as he considers appropriate for enabling those persons to object to the modification.
- (3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the relevant Minister include any modification of any area designated by the proposed order as a nitrate sensitive area.
- (4) For the purposes of this Schedule it shall be immaterial, in a case in which a modification such as is mentioned in sub-paragraph (3) above incorporates land in England in an area which (but for the modification) would have been wholly in Wales, that any requirements of paragraph 3 above in relation to the proposed order have been complied with by the Secretary of State, rather than by the Ministers.

*Consideration of objections etc.*

- 6 Without prejudice to section 213 of this Act, where notices with respect to any proposed order have been published and served in accordance with paragraph 3

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above, the Secretary of State or, as the case may be, the Ministers may, if he or they consider it appropriate to do so, hold a local inquiry before deciding whether or not to make the proposed order or to make it with modifications.

*Consent of Treasury for payment provisions*

- 7 The consent of the Treasury shall be required for the making of any order under section 94 of this Act the making of which does not require the consent of the Treasury by virtue of paragraph 1 above but which contains any such provision as is authorised by subsection (3)(b) of that section.