

## SCHEDULES

## SCHEDULE 14

Section 108.

ORDERS TRANSFERRING MAIN RIVER  
FUNCTIONS TO THE [F<sup>1</sup>APPROPRIATE AGENCY]**Textual Amendments**

- F1** Words in Sch. 14 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 311(b)** (with Sch. 7)

*Procedure on application for order*

- 1 As soon as any scheme under section 108 of this Act has been submitted to one of the Ministers, the [F<sup>2</sup>appropriate agency] shall—
- (a) send copies of the scheme to every internal drainage board, local authority, navigation authority, harbour authority and conservancy authority affected by it; and
  - (b) publish, in one or more newspapers circulating in the area affected by the scheme, a notice stating—
    - (i) that the scheme has been submitted to that Minister;
    - (ii) that a copy of it is open to inspection at a specified place; and
    - (iii) that representations with respect to the scheme may be made to that Minister at any time within one month after the publication of the notice.

**Textual Amendments**

- F2** Words in Sch. 14 para. 1 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 311(b)** (with Sch. 7)

*Order making procedure etc.*

- 2 (1) Before either of the Ministers makes an order under section 108 of this Act, he shall cause notice of—
- (a) the intention to make it;
  - (b) the place where copies of the draft order may be inspected and obtained; and
  - (c) the period within which, and the manner in which, objections to the draft order may be made,
- to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected and to be sent to the persons specified in sub-paragraph (2) below.
- (2) The persons referred to in sub-paragraph (1) above are—

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- (a) every county council [<sup>F3</sup>, county borough council] or London borough council in whose area any part of the area proposed to be affected by the order is situated and, if any part of that area is situated in the City of London, the Common Council of the City of London;
- (b) the [<sup>F4</sup>appropriate agency] and every drainage body, navigation authority, harbour authority or conservancy authority that is known to the Minister in question to be exercising jurisdiction within the area proposed to be affected by the order.

(3) In sub-paragraph (2) above “drainage body” has the same meaning as in section 108 of this Act.

#### Textual Amendments

- F3** Words in Sch. 14 para. 2(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(8)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F4** Words in Sch. 14 para. 2 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 311(b)** (with Sch. 7)

#### *Determination of whether to make order*

- 3 (1) Before either of the Ministers makes an order under section 108 of this Act he—
- (a) shall consider any objections duly made to the draft order; and
  - (b) may, in any case, cause a public local inquiry to be held with respect to any objections to the draft order.
- (2) Each of the Ministers may, in making an order under section 108 of this Act, make such modifications in the terms of the draft as appear to him to be desirable and may confirm the scheme to which the order relates either with or without modifications.

#### *Notice of orders*

- 4 As soon as may be after an order under section 108 of this Act has effect one of the Ministers shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice—
- (a) stating that the order has come into force; and
  - (b) naming a place where a copy of it may be seen at all reasonable hours.

#### *Challenge to orders*

- 5 (1) If any person aggrieved by an order under section 108 of this Act desires to question its validity on the ground—
- (a) that it is not within the powers of this Act; or
  - (b) that any requirement of this Act has not been complied with,
- he may, within six weeks of the date of the publication of the notice mentioned in paragraph 4 above, make an application for the purpose to the High Court.
- (2) Where an application is duly made to the High Court under this paragraph, the High Court, if satisfied—
- (a) that the order is not within the powers of this Act; or

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- (b) that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with, may quash the order either generally or in so far as it affects the applicant.
- (3) Except by leave of the Court of Appeal, no appeal shall lie to the [<sup>F5</sup>Supreme Court] from a decision of the Court of Appeal in proceedings under this paragraph.
- (4) Subject to the preceding provisions of this paragraph an order under section 108 of this Act shall not at any time be questioned in any legal proceedings whatsoever.

#### Textual Amendments

- F5** Words in Sch. 14 para. 5(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 55](#); [S.I. 2009/1604, art. 2\(d\)](#)

#### *Power to make regulations for purposes of Schedule etc.*

- 6 The Ministers may make regulations in relation to—
- (a) the publication of notices under paragraph 2 or 4 above;
  - (b) the holding of public local inquiries under this Schedule and procedure at those inquiries; and
  - (c) any other matters of procedure respecting the making of orders under section 108 of this Act.

**Changes to legislation:**

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