

SCHEDULES

SCHEDULE 5

Section 21.

PROCEDURE RELATING TO STATEMENTS ON MINIMUM ACCEPTABLE FLOW

Application of Schedule

- 1 (1) This Schedule applies in the case of any draft statement prepared under section 21 or 22 of this Act.
- (2) References in this Schedule, in relation to a statement for amending the provision for determining the minimum acceptable flow of any inland waters, to the inland waters to which the statement relates are references to the inland waters to which the proposed amendment relates.

Notice of proposed statement

- 2 (1) Before submitting the draft statement to the Secretary of State, the [F¹appropriate agency] shall publish a notice—
- (a) stating the general effect of the draft statement;
 - (b) specifying the place where a copy of the draft statement, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of first publication of the notice; and
 - (c) stating that any person may within that period, by notice in writing to the Secretary of State, object to the approval of the statement.
- (2) A notice under this paragraph shall be published either—
- (a) at least once in each of two successive weeks, in one or more newspapers circulating in the locality in which the inland waters to which the draft statement relates are situated; or
 - (b) in any other manner which, in any particular case, may be certified by the Secretary of State to be expedient in that case.
- (3) Not later than the date on which the notice is first published in pursuance of subparagraph (2) above, the [F¹appropriate agency] shall serve a copy of the notice on—
- (a) every local authority or joint planning board whose area comprises any inland waters to which the draft statement relates;
 - (b) any water undertaker having the right to abstract water from any such inland waters;
 - (c) any other water undertaker which was consulted in relation to the draft statement in pursuance of section 21(3)(b) of this Act;
 - (d) the drainage board for any internal drainage district which comprises any such inland waters or from which water is discharged into any such inland waters;

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- (e) any navigation authority, harbour authority or conservancy authority having functions in relation to any such waters or any related inland waters;
 - (f) if any such waters or any related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, ^{F2}the Secretary of State for Transport];
 - (g) any person authorised by a licence under Part I of the ^{M1}Electricity Act 1989 to generate electricity ^{F3}who has a right to abstract water from any such waters or related inland waters].; and
 - (h) every person who—
 - (i) has given notice to the ^{F1}appropriate agency] requesting it to notify him of action taken in connection with the determination of a minimum acceptable flow for any inland waters to which the draft statement relates; and
 - (ii) if the ^{F1}appropriate agency] have required him to pay a reasonable charge for being so notified, has paid that charge.
- (4) The ^{F1}appropriate agency] shall also publish a notice in the London Gazette—
- (a) stating that the draft statement has been submitted to the Secretary of State;
 - (b) naming the areas in respect of which a copy of a notice is required to be served under sub-paragraph (3)(a) above;
 - (c) specifying a place where a copy of the draft statement and of any relevant map or plan may be inspected; and
 - (d) where the notice required by sub-paragraph (1) above is published in a newspaper, giving the name of the newspaper and the date of an issue containing the notice.
- (5) In this paragraph “related inland waters” has the same meaning as for the purposes of subsection (3) of section 21 of this Act is given by subsection (8) of that section.

Textual Amendments

- F1** Words in Sch. 5 paras. 2-5 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 307** (with Sch. 7)
- F2** Words in Sch. 5 para. 2(3)(f) substituted (25.11.2002) by [S.I. 2002/2626](#), art. 20, **Sch. 2 para. 18(3)**
- F3** Words in Sch. 5 para. 2(3)(g) added (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 180** (with ss. 7(6), 115, 117); [S.I. 1996/186](#), art. 3

Modifications etc. (not altering text)

- C1** Sch. 5 para. 2(3)(a) applied (with modifications) (4.6.1996) by [S.I. 1996/1243](#), art. 18, **Sch. 5 Pt. II para. 6(2)(b)**

Marginal Citations

- M1** [1989 c. 29](#).

Duty to provide copy of draft statement

- 3 The ^{F1}appropriate agency] shall, at the request of any person, furnish him with a copy of the draft statement on payment of such charge as the ^{F1}appropriate agency] thinks reasonable.

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Textual Amendments

- F1** Words in [Sch. 5 paras. 2-5](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 307](#) (with [Sch. 7](#))

Approval of draft statement

- 4 (1) The Secretary of State may approve the statement either in the form of the draft or in that form as altered in such manner as he thinks fit.
- (2) Where the Secretary of State—
- (a) proposes to make any alteration of a statement before approving it; and
 - (b) considers that any persons are likely to be adversely affected by it,
- the ^{F1}[appropriate agency] shall give and publish such additional notices, in such manner, as the Secretary of State may require.
- (3) Sub-paragraph (4) below shall apply if, before the end of—
- (a) the period of twenty-eight days referred to in sub-paragraph (1) of paragraph 2 above;
 - (b) the period of twenty-five days from the publication in the London Gazette of the notice under sub-paragraph (4) of that paragraph; or
 - (c) any period specified in notices under sub-paragraph (2) above,
- notice of an objection is received by the Secretary of State from any person on whom a notice is required by this Schedule to be served, or from any other person appearing to the Secretary of State to be affected by the draft statement, either as prepared in draft or as proposed to be altered.
- (4) Where this sub-paragraph applies and the objection in question is not withdrawn, the Secretary of State, before approving the statement, shall either—
- (a) cause a local inquiry to be held; or
 - (b) afford to the objector and to the ^{F1}[appropriate agency] an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) Where under this paragraph an objection is received by the Secretary of State from—
- (a) the drainage board for any internal drainage district which comprises any inland waters to which the draft statement relates or, as the case may be, from which water is discharged into any such inland waters; or
 - (b) such an association or person claiming to represent a substantial fishery interest affected by the statement as is certified by the Minister to appear to him to represent such an interest,
- sub-paragraphs (1) to (4) above and paragraph 5 below shall have effect as if references to the Secretary of State (except the first reference in sub-paragraph (3) above) were references to the Ministers.

Textual Amendments

- F1** Words in [Sch. 5 paras. 2-5](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 307](#) (with [Sch. 7](#))

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Notice and inspection of approved statement

- 5 (1) Where a statement is approved under this Schedule, whether in the form of the draft proposed by the [F1 appropriate agency] or with alterations, the Secretary of State shall give notice to the [F1 appropriate agency]—
- (a) stating that the statement has been approved, either without alteration or with alterations specified in the notice; and
 - (b) specifying the date (not being earlier than twenty-eight days after the date of the notice under this paragraph) on which the statement shall have effect;
- and the [F1 appropriate agency] shall forthwith publish the notice.
- (2) The [F1 appropriate agency] shall keep a copy of every statement, as approved under this Schedule, available at its offices for inspection by the public, free of charge, at all reasonable times.

Textual Amendments

F1 Words in Sch. 5 paras. 2-5 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 307** (with Sch. 7)

Changes to legislation:

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