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## SCHEDULES

### SCHEDULE 16

#### PROCEDURE FOR MAKING AND CONFIRMING ORDERS RELATING TO ROADS AND RIGHTS OF WAY

#### PART I

#### MAKING ORDERS

*Procedure in anticipation of planning permission, etc.*

- 2 (1) Where the Secretary of State would, if planning permission for any development had been granted under Part III [<sup>F1</sup>or section 242A], have power to make an order under section 202 authorising the stopping-up or diversion of a road in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, the Secretary of State may, in the circumstances specified in subparagraphs (2) to (4), publish notice of the draft of such an order in accordance with paragraph 1.
- (2) The Secretary of State may publish such a notice where the relevant development is the subject of an application for planning permission and either—
- (a) that application is made by a local authority or statutory undertakers,
  - [<sup>F2</sup>(aa) that application is made under section 242A;]
  - (b) that application stands referred to the Secretary of State in pursuance of a direction under section 46, or
  - (c) the applicant has appealed to the Secretary of State under section 47 against a refusal of planning permission or of approval required under a development order, or against a condition of any such permission or approval.
- (3) The Secretary of State may publish such a notice where—
- (a) the relevant development is to be carried out by a local authority or statutory undertakers and requires, by virtue of an enactment, the authorisation of a government department, and
  - (b) the developers have made application to the department for that authorisation and also requested a direction under section 57 that planning permission be deemed to be granted for that development.
- (4) The Secretary of State may publish such a notice where the planning authority certify that they have begun to take such steps, in accordance with regulations made by virtue of section 263, as are requisite in order to enable them to obtain planning permission for the relevant development.
- (5) Paragraph 1(5) shall not be construed as authorising the Secretary of State to make an order under section 202 of which notice has been published by virtue of

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sub-paragraph (1) until planning permission is granted for the development which occasions the making of the order.

**Textual Amendments**

- F1** Words in Sch. 16 para. 2(1) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), **4(14)(a)**
- F2** Sch. 16 para. 2(2)(aa) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), **4(14)(b)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)