Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 4

Section 12

POWERS IN RELATION TO, AND FOR, STATUTORY UNDERTAKERS

PART 1

EXTINGUISHMENT OR REMOVAL POWERS FOR THE HCA

Notice for extinguishment of rights of undertakers or for removal of their apparatus

1 (1) Sub-paragraph (2) applies if—

(a) a protected right subsists over land of the HCA and is vested in, or belongs to, statutory undertakers for the purpose of carrying on their undertaking, or

(b) apparatus vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking is on, under or over land of the HCA.

(2) The HCA may serve a notice on the statutory undertakers.

(3) The notice may, in the case of a protected right, state that, at the end of the relevant period, the right will be extinguished.

(4) The notice may, in the case of apparatus, require that, before the end of the relevant period, the apparatus must be removed.

(5) In this paragraph—

"protected right" means—

(a) a right of way on, under or over land, or

(b) a right of laying down, erecting, continuing or maintaining apparatus on, under or over land,

"relevant period" means—

(a) the period of 28 days beginning with the date of service of the notice, or

(b) any longer period beginning with that date and specified in the notice.

Commencement Information

I1 Sch. 4 para. 1 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Counter-notices

2 (1) Sub-paragraph (2) applies if the HCA serves a notice under paragraph 1 on statutory undertakers.

(2) The statutory undertakers may, before the end of the period of 28 days beginning with the date of the service of the notice, serve a counter-notice on the HCA.

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The counter-notice is a notice stating that the statutory undertakers object to all or any provisions of the notice under paragraph 1.

(4) The counter-notice must also specify the grounds of their objection.

Commencement Information
I2 Sch. 4 para. 2 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Effect of unopposed notice

3 (1) This paragraph applies if—
(a) a notice is served under paragraph 1, and
(b) no counter-notice is served under paragraph 2.

(2) Any right to which the notice under paragraph 1 relates is extinguished at the end of the period specified for that purpose in the notice.

(3) The HCA may—
(a) remove any apparatus, and
(b) dispose of it as it considers appropriate,
if any requirement of the notice under paragraph 1 as to the removal of the apparatus has not been complied with by the end of the period specified for that purpose in the notice.

Commencement Information
I3 Sch. 4 para. 3 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Opposed notices and Ministerial orders

4 (1) This paragraph applies if—
(a) a notice is served under paragraph 1, and
(b) a counter-notice is served under paragraph 2.

(2) The HCA may—
(a) withdraw the notice served under paragraph 1, or
(b) apply to the Secretary of State and the appropriate Minister for an order under sub-paragraph (3).

(3) The Secretary of State and the appropriate Minister may make an order embodying, with or without modifications, the provisions of the notice.

(4) The fact that a notice has been withdrawn under sub-paragraph (2)(a) does not prejudice the service of a further notice.

Commencement Information
I4 Sch. 4 para. 4 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

5 (1) Before making an order under paragraph 4(3), the Secretary of State and the appropriate Minister must give the statutory undertakers on whom notice was served an opportunity to object to the application for the order.

(2) The Secretary of State and the appropriate Minister—

(a) must consider any objections made by virtue of sub-paragraph (1), and

(b) must give—

(i) the statutory undertakers who made the objections, and

(ii) the HCA,

an opportunity to appear before, and be heard by, a person appointed for this purpose by the Secretary of State and the appropriate Minister.

(3) The Secretary of State and the appropriate Minister may then—

(a) decide not to make an order, or

(b) proceed to make an order in accordance with the application (with or without modifications).

Commencement Information

I5 Sch. 4 para. 5 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

6 (1) This paragraph applies if an order is made under paragraph 4(3).

(2) Any right to which the order relates is extinguished at the end of the period specified for that purpose in the order.

(3) The HCA may—

(a) remove any apparatus, and

(b) dispose of it as it considers appropriate,

if any requirement of the order as to the removal of the apparatus has not been complied with by the end of the period specified for that purpose in the order.

Commencement Information

I6 Sch. 4 para. 6 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Compensation

7 (1) Statutory undertakers are entitled to compensation from the HCA if—

(a) any right vested in, or belonging to, the statutory undertakers is extinguished, or

(b) any requirement is imposed on the statutory undertakers,

by virtue of this Part of this Schedule.

(2) Sections 280 and 282 of the Town and Country Planning Act 1990 (c. 8) (measure of compensation to statutory undertakers) apply to compensation under this paragraph as they apply to compensation under section 279(4) of that Act.

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I7 Sch. 4 para. 7 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Electronic communications

8 (1) The reference in paragraph 1(1)(a) to a protected right vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking includes a reference to a protected right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network.

(2) The reference in paragraph 1(1)(b) to apparatus vested in, or belonging to, statutory undertakers for the purpose of carrying on their undertaking includes a reference to electronic communications apparatus kept installed for the purposes of any such network.

(3) Sub-paragraphs (1) and (2) do not apply where paragraphs 12 and 13 of Part 2 of Schedule 3 apply (orders under paragraph 3 of that Schedule which relate to electronic communications apparatus).

(4) Where paragraph 1 has effect as mentioned in sub-paragraphs (1) and (2) above—

(a) any reference in this Part of this Schedule to statutory undertakers has effect as a reference to the operator of the electronic communications code network, and

(b) any reference in this Part of this Schedule to the appropriate Minister has effect as a reference to the Secretary of State for Business, Enterprise and Regulatory Reform.

Commencement Information

I8 Sch. 4 para. 8 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

PART 2

POWERS FOR UNDERTAKERS TO CARRY OUT WORKS

Notices to carry out works

9 (1) Sub-paragraph (2) applies if—

(a) apparatus vested in, or belonging to, statutory undertakers is on, under or over land of the HCA, and

(b) the statutory undertakers claim that development to be carried out on the land will require, on technical or other grounds connected with carrying on their undertaking, the removal or re-siting of the apparatus affected by the development.

(2) The statutory undertakers may serve on the HCA a notice claiming the right to—

(a) enter on the land, and

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Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

(3) No notice may be served under sub-paragraph (2) more than 21 days after the beginning of the development on the land.

Commencement Information
I9 Sch. 4 para. 9 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Counter-notices

10 (1) Sub-paragraph (2) applies if statutory undertakers serve a notice under paragraph 9 on the HCA.

(2) The HCA may, before the end of the period of 28 days beginning with the date of the service of the notice, serve a counter-notice on the statutory undertakers.

(3) The counter-notice is a notice stating that the HCA objects to all or any provisions of the notice under paragraph 9.

(4) The counter-notice must also specify the grounds of the HCA's objection.

Commencement Information
I10 Sch. 4 para. 10 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Effect of unopposed notice

11 (1) This paragraph applies if—

(a) a notice is served under paragraph 9,

(b) no counter-notice is served under paragraph 10, and

(c) the period of 28 days beginning with the date of the service of the notice under paragraph 9 has ended.

(2) The statutory undertakers have the rights claimed in their notice under paragraph 9.

Commencement Information
I11 Sch. 4 para. 11 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Opposed notices and Ministerial orders

12 (1) This paragraph applies if—

(a) a notice is served under paragraph 9, and

(b) a counter-notice is served under paragraph 10.

(2) The statutory undertakers may—

(a) withdraw the notice served under paragraph 9, or

(b) apply to the Secretary of State and the appropriate Minister for an order under sub-paragraph (3).

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The Secretary of State and the appropriate Minister may by order confer on the statutory undertakers—

(a) the rights claimed in the notice under paragraph 9, or

(b) such modified rights as the Secretary of State and the appropriate Minister consider it appropriate to confer on the statutory undertakers.

(4) The fact that a notice has been withdrawn under sub-paragraph (2)(a) does not prejudice the service of a further notice.

Commencement Information

I12 Sch. 4 para. 12 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to arrange for the works to be done by the HCA

13 (1) Sub-paragraph (2) applies if statutory undertakers have the right to carry out works for the removal or re-siting of apparatus by virtue of this Part of this Schedule.

(2) The statutory undertakers may arrange with the HCA for the works to be carried out by the HCA, under the superintendence of the statutory undertakers, instead of by the statutory undertakers themselves.

Commencement Information

I13 Sch. 4 para. 13 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Compensation

14 (1) Statutory undertakers are entitled to compensation from the HCA if works are carried out for the removal or re-siting of their apparatus which they have the right to carry out by virtue of this Part of this Schedule.

(2) Sections 280 and 282 of the Town and Country Planning Act 1990 (c. 8) (measure of compensation to statutory undertakers) apply to compensation under this paragraph as they apply to compensation under section 279(4) of that Act.

Commencement Information

I14 Sch. 4 para. 14 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Electronic communications

15 (1) The reference in paragraph 9(1)(a) to apparatus vested in, or belonging to, statutory undertakers includes a reference to electronic communications apparatus kept installed for the purposes of an electronic communications code network.

(2) Where paragraph 9(1)(a) has effect as mentioned in sub-paragraph (1) above—

(a) any reference in this Part of this Schedule to statutory undertakers has effect as a reference to the operator of the electronic communications code network, and

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(b) any reference in this Part of this Schedule to the appropriate Minister has effect as a reference to the Secretary of State for Business, Enterprise and Regulatory Reform.

Commencement Information
I15 Sch. 4 para. 15 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

PART 3

EXTENSION OR MODIFICATION OF FUNCTIONS OF UNDERTAKERS

Ministerial order following representations by statutory undertakers

16 (1) The Secretary of State and the appropriate Minister may by order provide for an extension or modification of the functions of particular statutory undertakers if conditions 1 and 2 are met.

(2) Condition 1 is that the statutory undertakers have made representations on the subject to the Secretary of State and the appropriate Minister.

(3) Condition 2 is that the Secretary of State and the appropriate Minister consider it appropriate to extend or modify the functions of the statutory undertakers—

(a) to secure the provision of services which—

(i) would not otherwise be provided, or

(ii) would not otherwise be satisfactorily provided,

in relation to relevant land, or

(b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in sub-paragraph (4).

(4) The acts and events are—

(a) the acquisition by the HCA under this Part of this Act of any land—

(i) in which an interest was held for the purpose of carrying on the undertaking concerned, or

(ii) which was used for that purpose, and

(b) the extinguishment of a right, or the imposition of any requirement, by virtue of Part 1 of this Schedule.

(5) In this Part of this Schedule "relevant land" means land in respect of which any of the functions of the HCA under this Part of this Act are being, or have been, exercised.

Commencement Information
I16 Sch. 4 para. 16 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Ministerial order following representations by the HCA

17 (1) The Secretary of State and the appropriate Minister may by order provide for an extension or modification of the functions of particular statutory undertakers if conditions 1 and 2 are met.

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(2) Condition 1 is that the HCA has made representations on the subject to the Secretary of State and the appropriate Minister.

(3) Condition 2 is that the Secretary of State and the appropriate Minister consider it appropriate to extend or modify the functions of the statutory undertakers to secure—
  (a) the provision of new services in relation to relevant land, or
  (b) the extension of existing services in relation to such land.

Commencement Information
I17 Sch. 4 para. 17 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Examples of contents of orders

18 (1) An order under paragraph 16 or 17 may, in particular—
  (a) give power to statutory undertakers—
    (i) to acquire (whether compulsorily or by agreement) any land specified in the order, or
    (ii) to erect or construct any buildings or works specified in the order,
  (b) apply, in relation to the acquisition of any such land or the erection or construction of any such buildings or works, enactments relating to the acquisition of land or the erection or construction of buildings or works.

(2) An order under paragraph 16 which is for the purposes mentioned in sub-paragraph (3)(a) of that paragraph or an order under paragraph 17 may, in particular, give effect to any financial arrangements—
  (a) agreed between the HCA and the statutory undertakers, or
  (b) in the absence of agreement, decided to be equitable in such manner, and by such tribunal, as may be specified in the order.

Commencement Information
I18 Sch. 4 para. 18 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Notification of proposal to make order

19 (1) Statutory undertakers must, as soon as possible after making representations of the kind mentioned in paragraph 16(2), publish a notice—
  (a) giving such particulars as the Secretary of State and the appropriate Minister may direct of the matters to which the representations relate,
  (b) specifying the time within which objections to the making of an order as a result of the representations may be made, and
  (c) specifying the manner in which objections to the making of such an order may be made.

(2) The notice must be published in such form and manner as the Secretary of State and the appropriate Minister may direct.

(3) The statutory undertakers must also serve a copy of the notice on such persons, or descriptions of persons, as the Secretary of State and the appropriate Minister may

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direct if the Secretary of State and the appropriate Minister direct that a copy is to be served.

Commencement Information
I19 Sch. 4 para. 19 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

20 (1) The HCA must, as soon as possible after making representations of the kind mentioned in paragraph 17(2), publish a notice—
(a) giving such particulars as the Secretary of State and the appropriate Minister may direct of the matters to which the representations relate,
(b) specifying the time within which objections to the making of an order as a result of the representations may be made, and
(c) specifying the manner in which objections to the making of such an order may be made.

(2) The notice must be published in such form and manner as the Secretary of State and the appropriate Minister may direct.

(3) The HCA must also serve a copy of the notice on such persons, or descriptions of persons, as the Secretary of State and the appropriate Minister may direct if the Secretary of State and the appropriate Minister direct that a copy is to be served.

Commencement Information
I20 Sch. 4 para. 20 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to consider objections

21 (1) The Secretary of State and the appropriate Minister must proceed under paragraph 22 if—
(a) an objection to the making of an order under paragraph 16 or 17 is properly made and not withdrawn, and
(b) the matter is not otherwise dealt with.

(2) For the purposes of sub-paragraph (1) an objection is properly made if (and only if)—
(a) it is made—
(i) within the time, and
(ii) in the manner,
stated in the notice under paragraph 19(1) or (as the case may be) 20(1), and
(b) a written statement of the grounds of the objection is comprised in, or submitted with, the objection.

(3) For the purposes of sub-paragraph (1) the matter is otherwise dealt with if (and only if) the Secretary of State and the appropriate Minister—
(a) decide, irrespective of the objection, not to make the order, or
(b) decide to make a modification which is agreed to by the objector as meeting the objection.

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I21 Sch. 4 para. 21 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

22 (1) The Secretary of State and the appropriate Minister must, before making a final decision, consider the grounds of the objection as set out in the statement comprised in, or submitted with, the objection.

(2) The Secretary of State and the appropriate Minister may require the objector to submit within a specified period a further written statement as to any of the matters to which the objection relates.

Commencement Information
I22 Sch. 4 para. 22 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to give opportunity to appear

23 (1) The Secretary of State and the appropriate Minister must, before making a final decision, give the objector an opportunity to appear before, and be heard by, a person appointed for the purpose by the Secretary of State and the appropriate Minister.

(2) The Secretary of State and the appropriate Minister must give an opportunity of appearing and being heard on the same occasion to—

(a) the statutory undertakers or (as the case may be) the HCA as a result of whose representations the order is proposed to be made, and

(b) any other persons whom the Secretary of State and the appropriate Minister consider ought to be given the opportunity,

if the objector takes advantage of the opportunity mentioned in sub-paragraph (1).

(3) Sub-paragraphs (1) and (2) do not apply so far as the Secretary of State and the appropriate Minister have the power to proceed under paragraph 24 or 25.

Commencement Information
I23 Sch. 4 para. 23 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to treat objection as irrelevant

24 The Secretary of State and the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision—

(a) if the Secretary of State and the appropriate Minister have considered the grounds of the objection as set out in the original statement and in any further statement, and

(b) so far as the Secretary of State and the appropriate Minister are satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation.

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I24 Sch. 4 para. 24 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to curtail decision-making process

25 The Secretary of State and the appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates if—

(a) the Secretary of State and the appropriate Minister—

(i) have considered the grounds of the objection as set out in the original statement and in any further statement, and

(ii) are satisfied that, for the purpose of making a final decision, sufficient information is available as to the matters to which the objection relates, or

(b) a further statement has been required under paragraph 22(2) but is not submitted within the specified period.

Commencement Information
I25 Sch. 4 para. 25 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to hold public local inquiry

26 (1) The Secretary of State and the appropriate Minister must cause a public local inquiry to be held in relation to an objection under this Part of this Schedule if the Secretary of State and the appropriate Minister consider that the matters to which the objection relates are such as to require investigation by such an inquiry before the Secretary of State and the appropriate Minister make a final decision.

(2) The duty in sub-paragraph (1) is effective despite any other provisions of this Part of this Schedule.

(3) The other provisions of this Part of this Schedule are to be ignored if, when the Secretary of State and the appropriate Minister decide to cause an inquiry to be held, effect has not been given to them.

Commencement Information
I26 Sch. 4 para. 26 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Special parliamentary procedure for orders

27 Orders under paragraph 16 or 17 are subject to special parliamentary procedure.

Commencement Information
I27 Sch. 4 para. 27 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 4

RELIEVING UNDERTAKERS OF OBLIGATIONS

Orders to relieve obligations

28 (1) The appropriate Minister may by order provide for statutory undertakers to be relieved (whether absolutely or so far as specified in the order) of the need to meet an obligation relating to the carrying on of their undertaking if conditions 1 and 2 are met.

(2) Condition 1 is that the statutory undertakers have made representations on the subject to the appropriate Minister.

(3) Condition 2 is that the appropriate Minister is satisfied that meeting some or all of the obligation has been made impracticable by any of the acts and events mentioned in sub-paragraph (4).

(4) The acts and events are—

(a) the acquisition by the HCA under this Part of this Act of any land—

(i) in which an interest was held for the purpose of carrying on the undertaking concerned, or

(ii) which was used for that purpose, and

(b) the extinguishment of a right, or the imposition of any requirement, by virtue of Part 1 of this Schedule.

Commencement Information

I28 Sch. 4 para. 28 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Notification of proposal to make order

29 (1) Statutory undertakers must, as soon as possible after making representations of the kind mentioned in paragraph 28(2), proceed as directed by the appropriate Minister.

(2) The appropriate Minister may direct the statutory undertakers to do either or both of the following—

(a) publish a notice—

(i) giving such particulars as the appropriate Minister may direct of the matters to which the representations relate,

(ii) specifying the time within which objections to the making of an order as a result of the representations may be made, and

(iii) specifying the manner in which objections to the making of such an order may be made, and

(b) serve a corresponding notice on such persons, or descriptions of persons, as the appropriate Minister may direct.

(3) Publication under sub-paragraph (2) must be in such form and manner as the appropriate Minister may direct.

Status: *Point in time view as at 01/12/2008.*
Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I29 Sch. 4 para. 29 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to consider objections

30 (1) The appropriate Minister must proceed under paragraph 31 if—
(a) an objection to the making of an order is properly made and not withdrawn, and
(b) the matter is not otherwise dealt with.

(2) For the purposes of sub-paragraph (1) an objection is properly made if (and only if)—
(a) it is made—
(i) within the time, and
(ii) in the manner,
stated in the notice under paragraph 29(2), and
(b) a written statement of the grounds of the objection is comprised in, or submitted with, the objection.

(3) For the purposes of sub-paragraph (1) the matter is otherwise dealt with if (and only if) the appropriate Minister—
(a) decides, irrespective of the objection, not to make the order, or
(b) decides to make a modification which is agreed to by the objector as meeting the objection.

Commencement Information
I30 Sch. 4 para. 30 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

31 (1) The appropriate Minister must, before making a final decision, consider the grounds of the objection as set out in the statement comprised in, or submitted with, the objection.

(2) The appropriate Minister may require the objector to submit within a specified period a further written statement as to any of the matters to which the objection relates.

Commencement Information
I31 Sch. 4 para. 31 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Duty to give opportunity to appear

32 (1) The appropriate Minister must, before making a final decision, give the objector an opportunity to appear before, and be heard by, a person appointed for the purpose by the appropriate Minister.

(2) The appropriate Minister must give an opportunity of appearing and being heard on the same occasion to—
(a) the statutory undertakers as a result of whose representations the order is proposed to be made, and

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(b) any other persons whom the appropriate Minister considers ought to be given the opportunity,

if the objector takes advantage of the opportunity mentioned in sub-paragraph (1).

(3) Sub-paragraphs (1) and (2) do not apply so far as the appropriate Minister has the power to proceed under paragraph 33 or 34.

Commencement Information
I32 Sch. 4 para. 32 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to treat objection as irrelevant

33 The appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision—

(a) if the appropriate Minister has considered the grounds of the objection as set out in the original statement and in any further statement, and

(b) so far as the appropriate Minister is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation.

Commencement Information
I33 Sch. 4 para. 33 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to curtail decision-making process

34 The appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates if—

(a) the appropriate Minister—

(i) has considered the grounds of the objection as set out in the original statement and in any further statement, and

(ii) is satisfied that, for the purpose of making a final decision, sufficient information is available as to the matters to which the objection relates, or

(b) a further statement has been required under paragraph 31(2) but is not submitted within the specified period.

Commencement Information
I34 Sch. 4 para. 34 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Power to hold public local inquiry

35 (1) The appropriate Minister may cause a public local inquiry to be held in relation to an objection under this Part of this Schedule if the appropriate Minister considers that the matters to which the objection relates are such as to require investigation by such an inquiry before the appropriate Minister makes a final decision.

(2) The power in sub-paragraph (1) is effective despite any other provisions of this Part of this Schedule.

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(3) The other provisions of this Part of this Schedule are to be ignored if, when the Secretary of State decides to cause an inquiry to be held, effect has not been given to them.

Commencement Information

I35 Sch. 4 para. 35 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Notification procedure after the making of an order

36 (1) The appropriate Minister must, immediately after making an order under paragraph 28, proceed under sub-paragraphs (2) and (3).

(2) The appropriate Minister must publish a notice stating—

(a) that the order has been made, and

(b) a place where a copy of it may be seen at any reasonable hour.

(3) The appropriate Minister must serve a copy of the notice on—

(a) any person who—

(i) duly made an objection to the order, and

(ii) has sent the appropriate Minister a written request for the notice with an address for service, and

(b) any other person whom the appropriate Minister considers appropriate.

Commencement Information

I36 Sch. 4 para. 36 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Operative date of orders

37 An order under paragraph 28 which is not subject to special parliamentary procedure becomes operative on the date on which the notice required by paragraph 36(2) is first published.

Commencement Information

I37 Sch. 4 para. 37 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Special parliamentary procedure for orders

38 (1) An order under paragraph 28 is subject to special parliamentary procedure if any objection to the making of the order is properly made and not withdrawn before the order is made.

(2) Sub-paragraph (2) of paragraph 30 applies for the purposes of sub-paragraph (1) above as it applies for the purposes of sub-paragraph (1) of that paragraph.

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Changes to legislation: *Housing and Regeneration Act 2008, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I38 Sch. 4 para. 38 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Legal challenges to orders

39 (1) Sub-paragraph (2) applies if a person aggrieved by an order under paragraph 28 wishes to question its validity on the ground that—
(a) it is not within the powers conferred by this Part of this Schedule, or
(b) any requirement of this Part of this Schedule has not been complied with in relation to the order.

(2) The person may, within 6 weeks beginning with the date on which the notice required by paragraph 36(2) is first published, apply to the High Court.

(3) The High Court may, on an application under sub-paragraph (2), make an interim order suspending (whether wholly or in part) the operation of the order under paragraph 28 until the final determination of the proceedings.

(4) The operation of the order may be suspended generally or so far as affecting any property of the applicant.

(5) The High Court may, on an application under sub-paragraph (2), quash (whether wholly or in part) the order under paragraph 28 if satisfied that—
(a) the order is wholly or to any extent outside the powers conferred by this Part of this Schedule, or
(b) the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of this Part of this Schedule.

(6) The order under paragraph 28 may be quashed generally or so far as affecting any property of the applicant.

Commencement Information
I39 Sch. 4 para. 39 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

PART 5

SUPPLEMENTARY

Orders and directions

40 (1) The power of—
(a) the Secretary of State and the appropriate Minister,
(b) the Secretary of State and the Secretary of State for Business, Enterprise and Regulatory Reform, or
(c) the appropriate Minister,

to make orders under this Schedule includes power to vary or revoke such orders and to make supplementary, incidental, consequential, transitional, transitory or saving provision.

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(2) The power of—

(a) the Secretary of State and the appropriate Minister, or

(b) the appropriate Minister,

to give directions under this Schedule includes power to vary or revoke such directions and to make supplementary, incidental, consequential, transitional, transitory or saving provision.

Commencement Information

I40 Sch. 4 para. 40 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Interpretation

41 (1) In this Schedule—

"the appropriate Minister" is to be read as if contained in Part 11 of the Town and Country Planning Act 1990 (c. 8),

"the Secretary of State and the appropriate Minister" is to be read as if contained in Part 11 of the Town and Country Planning Act 1990 (and any references to the Secretary of State and the appropriate Minister are, in relation to anything done or to be done by them, to be read as references to them acting jointly),

"statutory undertakers" means persons who are or are deemed to be statutory undertakers for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990; and "statutory undertaking" is to be read in accordance with section 262 of that Act (meaning of "statutory undertaker").

(2) In this Schedule, in relation to an order, any reference to making a final decision is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Commencement Information

I41 Sch. 4 para. 41 in force at 1.12.2008 by S.I. 2008/3068, **art. 2(1)(g)** (with arts. 6-13)

Status:
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Changes to legislation:
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