

SCHEDULES

FIRST SCHEDULE

Sections 2, 8 and 31.

PROCEDURE FOR MAKING ORDERS AND PROVISIONS AS TO THE VALIDITY OF ORDERS

PART I

General Provisions

- 1 Before making an order the Minister shall prepare a draft order and shall cause notice of the intention to make the order and of the place where copies of the draft order may be inspected, and of the time (not being less than twenty-eight days) 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 may think best adapted for informing persons affected, and to be served—
- (a) on the council of every county [^{F1}county borough,] . . . ^{F2} or county district wholly or partly included in the area affected by the order;
 - (b) ^{F3}[^{F4} . . . on any sea defence commissioners, coast protection board, internal drainage board], harbour authority, fishery board, [^{F5} inshore fisheries and conservation authority,]^{F6} . . . conservancy authority or navigation authority known to the Minister to be exercising jurisdiction within that area;
 - [^{F7}(ba) on the Environment Agency if any part of the area affected by the order is in England, and on the Natural Resources Body for Wales if any part of the area affected by the order is in Wales;]
 - (c) on any local . . . ^{F2} authority known to him to be responsible for the maintenance of any highway in the area; and
 - (d) on the [^{F8}British Railways Board or the British Waterways Board], if the area contains any railway, canal or inland navigation vested in [^{F8}the Board.]
- 2 —Before making an order the Minister shall consider any objections which may be duly made to the draft order and may in any case cause a local inquiry to be held with respect to any objections to the draft order.
- 3 (1) In the case of an order which by virtue of the provisions of this Act is required to be made jointly by the Ministers concerned, references in the foregoing paragraphs to the Minister shall be construed as references to the Ministers concerned.
- (2) Where, in the case of an order not falling within the last foregoing sub-paragraph, objection to the draft order is duly made by a body mentioned in paragraphs (b) to (d) of paragraph 1 of this Schedule, the last foregoing paragraph shall have effect as if it required the objection to be considered, and authorised a local inquiry to be promoted, by the Ministers concerned instead of by the Minister.
- 4 In this Part of this Schedule the expression “the area affected by the order”—

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- (a) in the case of an order providing for the constitution of a coast protection board, means the area for which the board will be the coast protection authority;
- (b) in the case of an order varying the constitution of a coast protection board, but not altering the area for which the board is the coast protection authority, means that area;
- (c) in the case of an order altering the area of a coast protection board, means that area and any other area proposed by the order to be included in the area of the board; and
- (d) in the case of an order repealing or amending any provision of a local Act, means any area in relation to which any power or duty conferred or imposed by that provision is exercisable;

and the expression “the Ministers concerned” has the meaning assigned to it by subsection (8) of section two of this Act and the power of determination conferred on the Treasury by that subsection shall apply accordingly.

PART II

Certain Orders to be subject to Special Parliamentary Procedure

- 5 After an order has been made, the Minister shall, if an objection has been made under Part I of this Schedule by any body on whom notice is required to be served under that Part and has not been withdrawn, give notice of the making of the order and the effect thereof to every such body who have made such an objection which has not been withdrawn, and in that case the order shall not have effect before the expiration of twenty-eight days from the date of the said notice; and if within that period any such body give notice to the Minister that they object to the order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

PART III

Provisions with respect to the validity of Orders not confirmed by Parliament

- 6 After the making of an order the Minister shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made, and naming a place where a copy thereof may be seen at all reasonable hours:

Provided that in the case of an order to which Part II of this Schedule applies the said notice shall not be published until the expiration of the period of twenty-eight days referred to in that Part, and the notice shall state whether or not the order is to be subject to special parliamentary procedure.

- 7 If any person aggrieved by an order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the date of the first publication of the said notice, make an application for the purpose to the High Court, and if any such application is duly made the court, if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may

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quash the order either generally or in so far as it affects the applicant; but except as aforesaid the order shall not at any time be questioned by prohibition or certiorari or in any proceedings whatsoever:

Provided that this paragraph shall not apply to an order which is confirmed by Act of Parliament under section six of the ^{M1}Statutory Orders (Special Procedure) Act 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of Part II of this Schedule as if for the reference to the date of the publication of the notice there were substituted a reference to the date on which the order becomes operative under the said Act.

Marginal Citations

M1 1945 c. 18 (9 & 10 Geo. 6).

PART IV

Application to Scotland

- 8 In the application of this Schedule to Scotland—
- (a) for references to the High Court there shall be substituted references to the Court of Session;
 - [^{F9}(b) for references to the London Gazette and to [^{F10}a council of]a county or county district there shall be substituted respectively references to the Edinburgh Gazette and to a [^{F11}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]]
 - (c) for sub-paragraph (2) of paragraph 3 there shall be substituted the following sub-paragraph—
 - “(2) Where, in the case of an order not falling within the last foregoing sub-paragraph, objection to the draft order is duly made by a conservancy authority or a navigation authority or by a harbour authority, other than the authority for a harbour principally used by the fishing industry, [^{F12}or by the British Railways Board or the British Waterways Board], the last foregoing paragraph shall have effect as if it required the objection to be considered, and authorised a local inquiry to be promoted, by the Minister and the [^{F13}Secretary of State], instead of by the Minister;” and
 - (d) for the words “section six of the ^{M2}Statutory Orders (Special Procedure) Act 1945”, there shall be substituted the words “subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act 1945, or under section six of that Act”.

Textual Amendments

F9 Para. 8(b) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 138\(2\)\(g\)](#)

F10 Words in [Sch. 1, para.8\(b\)](#) inserted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13, para. 32\(6\)\(a\)](#); [S.I. 1996/323, art.4\(1\)\(c\)](#)

F11 Words in [Sch. 1 para. 8\(b\)](#) substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13, para. 32\(6\)\(b\)](#); [S.I. 1996/323, art.4\(1\)\(c\)](#)

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- F12** Words substituted by virtue of Transport Act 1962 (c. 46), **Sch. 2 Pt. I**
F13 Words substituted by virtue of S.I. 1970/1681
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Marginal Citations

- M2** 1945 c. 18 (9 & 10 Geo. 6).

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