

SCHEDULES

FIRST SCHEDULE

PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN INSTRUMENTS

PART I

Orders designating National Parks, Public Path Orders, Diversion Orders and Extinguishment Orders, and Access Orders

- 1 (1) Before—
- (a) an order designating a National Park,
 - (b) a public path order, diversion order or extinguishment order, or
 - (c) an access order,
- is submitted to the Minister for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Before the Minister makes an order varying an order designating a National Park, or makes a public path order, diversion order or extinguishment order or an access order, he shall prepare a draft of the order and shall give notice stating that he proposes to make the order and the effect thereof, naming places in the locality to which the draft relates where a copy of the draft and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft may be made.
- (3) The notice to be given under either of the two foregoing sub-paragraphs shall be given—
- (a) in the case of an order designating a National Park or an order varying such an order, by publication in the London Gazette, in two newspapers circulating in the country generally and in at least one local newspaper circulating in the area of every local planning authority whose area includes any of the land to which the order relates;
 - (b) in the case of a public path order or an access order, by publication in the London Gazette and in at least one local newspaper circulating in the locality in which the land to which the order relates is situated, and by serving a like notice on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any of that land, so however that—
 - (i) except in the case of an owner, lessee or occupier being a local authority or statutory undertakers, the Minister may in any particular

Status: This is the original version (as it was originally enacted).

case direct that it shall not be necessary to serve notice as aforesaid; but

- (ii) if the Minister so directs in the case of any land, then in addition to publication the notice shall be addressed to " the owners and any occupiers " of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land;
- (c) in the case of a diversion order or an extinguishment order, by publication and the service of notices as mentioned in head (b) of this sub-paragraph and also—
 - (i) by serving such a notice as is therein mentioned on the council of every county, county borough, county district or parish, and the parish meeting of every rural parish not having a separate parish council, being a county, borough, district or parish which includes any of the land to which the order relates; and
 - (ii) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any public path as is to be diverted or stopped up by virtue of the order.

(4) Where under this paragraph any notice is required to be served on an owner of land and the land belongs to an ecclesiastical benefice, a like notice shall be served on the Church Commissioners.

- 2
- (1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.
 - (2) If any representation or objection duly made is not withdrawn, the Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held and in any other case either—
 - (a) cause a local inquiry to be held, or
 - (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:

Provided that in the case of a public path order or diversion order, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the cartilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

- (3) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—
 - (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days) within which and manner in which representations or objections with respect to the proposal may be made;

- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

and, in the case of a public path order or diversion order, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

- (4) Where, in the case of an access order, it is represented by the persons carrying on a statutory undertaking, being a water undertaking, that any land comprised in the order as submitted to the Minister or in the draft order prepared by him, as the case may be (or, where notice of a proposed modification has been given under head (a) of the last foregoing sub-paragraph, any land to which the proposed modification relates), should be excluded from the operation of the order on the ground that by reason of—
 - (a) the proximity of the land to any reservoir used for the purposes of the undertaking, or
 - (b) any other physical factor affecting the flow of water from the land into any such reservoir,

the operation of section sixty of this Act as respects that land would be likely to involve danger to the purity of the water supply which could not be prevented by the taking of any reasonable measures, sub-paragraph (2) of this paragraph, or head (c) of the last foregoing sub-paragraph, as the case may be, shall have effect in relation to that representation as if it provided for the consideration of the report therein referred to by the Minister and the Minister of Health acting jointly.

- (5) If, as the result of any representations or objections considered, or inquiry or other hearing held, in connection with the confirmation of an order designating a National Park or the making of an order varying such an order, the Minister is of opinion that the Commission, a local planning authority or any other person ought to be consulted before he decides whether to confirm or make the order either with or without modifications, he shall consult the Commission, authority or other person but, subject to the provisions of sub-paragraph (3) of this paragraph, shall not be under any obligation to consult any other person, or to afford any opportunity for further representations or objections or to cause any further inquiry or other hearing to be held.

- 3 As soon as may be after any such order as is mentioned in paragraph 1 of this Schedule has been confirmed or made by the Minister, the authority by whom the order was made, or, in the case of an order made by the Minister, the Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected at all reasonable hours, and—

- (a) where under the said sub-paragraph (3) notice was required to be served, shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph or under sub-paragraph (4) of paragraph 1 of this Schedule; and

- (b) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph:

Provided that no such notice or copy need be served on a person unless he has sent to the authority or Minister (according as the notice or copy would require to be served by an authority or by the Minister) a request in writing in that behalf specifying an address for service.

- 4 (1) The Minister may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.
- (2) Provision may be made by regulations of the Minister for enabling proceedings preliminary to the confirmation of an extinguishment order to be taken concurrently with proceedings preliminary to the confirmation of a public path order or diversion order.
- (3) In this Part of this Schedule the expression "prescribed" means prescribed by regulations made by the Minister.

PART II

Orders Restricting Traffic on certain Roads

- 5 (1) Before an order under subsection (3) of section ninety-three of this Act is submitted to the Minister of Transport for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) The notice to be given under the last foregoing sub-paragraph shall be given by publication in the London Gazette and in at least one local newspaper circulating in the locality in which the highway to which the order relates is situated.
- (3) If no representations or objections are duly made under the foregoing provisions of this paragraph, or if all representations or objections so made are withdrawn, the Minister of Transport may, if he thinks fit, confirm the order with or without modifications.
- (4) If any representation or objection duly made is not withdrawn, the said Minister may, and if the objection or representation was made by the highway authority shall, cause a local inquiry to be held, and after considering the representation or objection and, if such an inquiry is held, the report of the person appointed to hold it, may confirm the order with or without modifications.
- (5) Notwithstanding anything in the foregoing provisions of this paragraph, the said Minister shall not confirm an order under subsection (3) of section ninety-three of this Act with such modifications as to make the restrictions thereby imposed less stringent than those imposed by the order as submitted except after consultation with

the authority by whom the order was made; and the said Minister shall not confirm such an order with such modifications as to make the said restrictions more stringent than those imposed as aforesaid except after—

- (a) giving such notice as appears to him requisite of his proposal so to modify the order;
- (b) if he thinks fit, holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and
- (c) considering the report of any person appointed under this sub-paragraph to hold an inquiry or to hear representations or objections, as the case may be.

(6) As soon as may be after any such order as aforesaid has been confirmed, the authority by whom the order was made shall publish, in such manner as may be prescribed, notice of the fact that the order has been confirmed and of its effect, and naming a place where a copy thereof as confirmed may be inspected at all reasonable hours.

6 (1) Before the Minister of Transport makes an order under subsection (5) of section ninety-three of this Act he shall prepare a draft of the order and shall give notice, in the manner specified in sub-paragraph (2) of the last foregoing paragraph, stating that he proposes to make the order and the effect thereof, naming places in the locality to which the order relates where copies of the draft order may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft order may be made.

(2) Sub-paragraphs (3), (4) and (6) of the last foregoing paragraph shall apply in relation to the making of an order under subsection (5) of section ninety-three of this Act, but subject to the following modifications:—

- (a) for references to the last foregoing paragraph and to the confirming of an order there shall be substituted respectively references to this paragraph and to the making of an order;
- (b) the reference in the said sub-paragraph (4) to the highway authority shall include a reference to the county or county borough council where that council is not the highway authority; and
- (c) if any representation or objection duly made by the highway authority or the county or county borough council is not withdrawn, the order shall be subject to special parliamentary procedure.

7 (1) The Minister of Transport may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.

(2) In this Part of this Schedule the expression "prescribed" means prescribed by regulations made by the Minister of Transport.

PART III

Provisions as to validity of orders, and of certain maps and statements prepared under Part IV of this Act

8 If any person desires to question the validity of an order to which Part I or Part II of this Schedule applies on the ground that it is not within the powers of this

Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the making or confirmation of the order, he may, within six weeks after the date of publication of notice of the confirmation or making of the order in accordance with the foregoing provisions of this Schedule in that behalf, make an application to the High Court; and on any such application the court—

- (a) may by interim order suspend the operation of the order, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
- (b) 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 a failure to comply with any such requirement as aforesaid, may quash the order either generally or in so far as it affects the applicant.

- 9 (1) If any person desires to question the validity of a definitive map prepared under Part IV of this Act on the ground that the map is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the preparation of the map, or of any draft or provisional map on which that map is based, he may, within six weeks after the date of publication of notice of the preparation of the map in accordance with the provisions of the said Part IV in that behalf, make an application to the High Court; and on any such application the court, if satisfied that the map is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may make an order declaring that, notwithstanding anything contained in the said Part IV, the definitive map shall not be conclusive evidence of any such matter as may be specified in the order.
- (2) References in this paragraph to a definitive map, or to a draft or provisional map, shall be construed as including references to a revised map prepared in definitive form, or to a revised map prepared in draft or provisional form, as the case may be; references therein to a map shall be construed as including references to any statement required by the provisions of Part IV of this Act to be annexed to the map; and for the purposes of this paragraph a map shall be deemed to be based on another map if the particulars contained in the former map are required by the said provisions to be the particulars contained in the latter map as modified in accordance with those provisions.
- 10 Subject to the provisions of the two last foregoing paragraphs, an order, map, or statement to which either of those paragraphs applies shall not, either before or after it has been confirmed, made or prepared, be questioned in any legal proceedings whatsoever, and any such order map or statement shall become operative on the date on which notice of the confirmation, making or preparation thereof is published as mentioned in those paragraphs respectively.
- 11 Paragraphs 8 and 10 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the 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 paragraph 2 or 6 of this Schedule as if for the reference in the said paragraph 10 to the date therein mentioned there were substituted a reference to the date on which the order becomes operative under the said Act.