

SCHEDULE 3

(introduced by section 57)

FURTHER PROVISIONS ABOUT ORDERS RELATING TO COMMONS

Duty to consult conservators

- 1 Before making an order under section 57(2) with respect to land which is or forms part of a common of which conservators have been appointed under any local Act, or under any order made under an Act of Parliament, the local authority must consult the conservators.

Procedure for making orders imposing prohibitions

- 2 Before making any order under section 57(2), other than an order the sole effect of which is to revoke or vary a previous order, the local authority must publish in 1 or more local newspapers circulating in the locality in which the land is situated a notice—
 - (a) stating the general effect of the order,
 - (b) specifying a place in that locality where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice, and
 - (c) stating that, within that period, any person may by notice to the local authority object to the making of the order.
- 3 (1) Not later than the date on which notice under paragraph 2 is first published, the local authority must serve a copy of it on every person entitled as lord of the manor or otherwise to the soil of the land unless the local authority is satisfied that the persons entitled to the soil of the land are numerous or cannot after diligent inquiry be ascertained.
 - (2) A notice under sub-paragraph (1) may be served on any person by sending it in a registered letter addressed to the person at the person's usual or last known address.
- 4 (1) If, before the end of the period of 28 days beginning with the date of the first publication of a notice under paragraph 2, an objection to the making of the order to which the notice relates is duly made to the local authority by any person entitled to the soil of the land, and the notice is not subsequently withdrawn, the local authority must not proceed with the making of the order.
 - (2) Subject to that, the local authority may, at any time within 1 year after the end of that period, make an order in the terms of the draft order.
 - (3) But if any objection to the making of the order was duly made within that period by a person who was not entitled to the soil of the land, and the objection has not been withdrawn at the date on which the order is made, the order does not take effect until it is confirmed by the Welsh Ministers.
 - (4) Where the local authority submits an order to the Welsh Ministers for confirmation, it must send to the Welsh Ministers a copy of every such objection as is referred to in the sub-paragraph (3).
 - (5) The Welsh Ministers, after considering every such objection and (if they think fit) causing a local inquiry to be held, may confirm or refuse to confirm the order and, if they confirm it, may do so subject to such modifications (if any) as they think desirable.

Notice to lord of manor of other orders

- 5 Where the sole effect of an order under section 57(2) is to revoke or vary a previous order (so that paragraphs 2 to 4 do not apply with respect to the making of the order) the local authority must serve such notices, and take such other steps, as appear to it to be appropriate for informing the persons entitled to the soil of the land of the effect of the order.

Crown land

- 6 (1) Where it is proposed to make an order of the kind described in paragraph 2 with respect to land in which there is a Crown or Duchy interest, and the nature of that interest is such that, but for this paragraph, the person to whom the interest belongs would be entitled under paragraph 3 to a copy of the notice referred to in that paragraph—
- (a) paragraph 3 has effect as if it required the copy to be served instead on the appropriate authority, and
 - (b) paragraph 4(1) does not apply in relation to the order but the local authority must not make the order unless and until it has obtained the consent in writing of the appropriate authority.
- (2) In this paragraph “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.
- (3) In this paragraph “the appropriate authority”—
- (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land,
 - (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy,
 - (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints, and
 - (d) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.
- (4) If any question arises as to what authority is the appropriate authority in relation to any land, that question is to be referred to the Treasury, whose decision is final.