Transport (Scotland) Act 2005

2005 asp 12

PART 3

MISCELLANEOUS

46 Amendment of procedure for dealing with applications for harbour orders

(1) Paragraph 18 of Schedule 3 to the Harbours Act 1964 (c. 40) ("the 1964 Act") (which provides for the holding of an inquiry or public hearing where an objection is made to an application for a harbour revision or empowerment order and is not withdrawn) shall be amended in accordance with subsections (2) to (4) below.

(2) For sub-paragraph (1) there is substituted—

"(1) This paragraph applies if an objection to the application was made to the Scottish Ministers and has not been withdrawn.

(1A) It does not apply, however, if—

(a) the Scottish Ministers decide that the application is not to proceed further;

(b) they consider the objection is frivolous or trivial;

(c) the objection does not specify the grounds on which it is made; or

(d) the objection was not made within the period allowed for making it.

(1B) Before making their decision under paragraph 19, the Scottish Ministers may—

(a) cause an inquiry to be held; or

(b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.

(1C) Where—

(a) the objection referred to in sub-paragraph (1) is made by a person within sub-paragraph (1D); and

(b) the person informs the Scottish Ministers in writing that the person wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (1B)(b),

the Scottish Ministers shall, before making their decision under paragraph 19, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (1B)(b).

(1D) The persons within this sub-paragraph are—

(a) any council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated; and

(b) if the order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.”.

(3) In sub-paragraph (2), for “sub-paragraph (1)(a)” there is substituted “sub-paragraph (1B)(b)”.

(4) In sub-paragraph (3), paragraph (a) is repealed.

(5) In paragraph 19 of that Schedule (decisions on an application for a harbour revision or empowerment order), there is inserted at the end of sub-paragraph (1) “; and

(f) any written representations submitted to the Scottish Ministers by the applicant or any objector in elaboration of the application or, as the case may be, objection.”,

and the word “and” occurring between sub-paragraphs (1)(d) and (e) is repealed.