

SCHEDULE 2

FUNCTIONS OF THE SECRETARY OF STATE EXERCISABLE JOINTLY WITH THE PLANNING MINISTER

Functions relating to the making of highway orders and schemes

1.—(1) For paragraphs 5 and 6 of Schedule 1 to the Highways Act 1959 there shall be substituted the following paragraphs:—

“5.—(1) If any objection to the proposed order—

- (a) is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 of this Schedule within the period specified in the notice in pursuance of paragraph 1(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 4A of this Schedule, within the period specified in the subsequent notice, or
- (b) is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be,

and the objection is not withdrawn, then—

- (i) in the case of an order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly, or
- (ii) in the case of an order made by a local highway authority and submitted to the Secretary of State, the Secretary of State,

shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

(2) Except where the objection is made by a person entitled to receive a copy of the notice relating to the order in question by virtue of the said paragraph 3 and such one or more of the following heads of the Table set out at the end of that paragraph, that is to say, heads (i), (ii), (iii) and (iv), as apply in the case of that order, the Secretary of State and the planning Minister acting jointly or, as the case may be, the Secretary of State may, if satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary, dispense with such an inquiry.

6. After any objections to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry have been considered—

- (a) in the case of an order proposed to be made by the Secretary of State, by the Secretary of State and the planning Minister acting jointly, or
- (b) in the case of an order made by a local highway authority and submitted to the Secretary of State, by the Secretary of State,

the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.”

(2) For paragraphs 9 and 10 of the said Schedule 1 there shall be substituted the following paragraphs:—

“9.—(1) If any objection to the proposed scheme—

- (a) is received by the Secretary of State from any council or authority on whom a copy of the notice is required to be served under paragraph 8 of this Schedule within the period specified in the notice in pursuance of paragraph 7(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 8A of this Schedule, within the period specified in the subsequent notice, or

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(b) is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be, and the objection is not withdrawn, then—

- (i) in the case of a scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly, or
- (ii) in the case of a scheme made by a local highway authority and submitted to the Secretary of State, the Secretary of State,

shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

(2) Except where the objection is made by any such council or authority as aforesaid, the Secretary of State and the planning Minister acting jointly or, as the case may be, the Secretary of State may, if satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary, dispense with such an inquiry.

10. After any objections to the proposed scheme which are not withdrawn and, where a local inquiry, is held, the report of the person who held the inquiry have been considered—

- (a) in the case of a scheme proposed to be made by the Secretary of State, by the Secretary of State and the planning Minister acting jointly, or
- (b) in the case of a scheme made by a local highway authority and submitted to the Secretary of State, by the Secretary of State,

the Secretary of State may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.”

(3) At the end of the said Schedule 1 there shall be inserted as Part III the following Part:—

“PART III

SUPPLEMENTAL

12. In this Schedule ‘the planning Minister’ means the Secretary of State for the time being having general responsibility in planning matters in relation to England or Wales, as the case may be.

13. This Schedule shall have effect as if references to the Secretary of State and the planning Minister acting jointly—

- (a) were references to the Secretary of State and the planning Minister acting jointly, if the planning Minister is not the one concerned as the Secretary of State; and
- (b) were references to the one concerned as the Secretary of State acting alone, if he is also the planning Minister.”

2.—(1) In subsection (4) of section 14 of the Highways Act 1971 after the words “Secretary of State” there shall be inserted the words “or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly”.

(2) In subsection (5) of the said section 14 after the words “Secretary of State”, in the first place where they occur, there shall be inserted the words “or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly”.

(3) In subsection (6) of the said section 14 for the word “has”, in the first place where it occurs, there shall be substituted the words “or the Secretary of State and the planning Minister acting jointly have,” and after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, as the case may be, those Ministers”.

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(4) In subsection (8) of the said section 14 after the words “Secretary of State”, in the third place where they occur, there shall be inserted the words “or, in the case of an order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly” and for the words “his opinion” there shall be substituted the words “his or their opinion”.

(5) After subsection (8) of the said section 14 there shall be inserted the following subsection:—

“(8A) In this section and in section 15 of this Act `the planning Minister' has the same meaning as in Schedule 1 to the principal Act and references to the Secretary of State and the planning Minister acting jointly shall be construed as if they were contained in that Schedule.”

3. In section 15(2) of the Highways Act 1971 for the words from “and before” to the end there shall be substituted the words “and before the Secretary of State exercises the power, the Secretary of State or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly shall consider any representations made to the Secretary of State with respect to the proposed modifications within that period.”