
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision as regards authorising prospective applicants for orders under section 1 of the Transport and Works (Scotland) Act 2007 (which relate to the authorisation of transport systems and inland waterways), to enter land to undertake inspections and surveys for purposes connected with construction, operation or works to which such an order would relate. This Order prescribes the manner in which an application should be made, the procedure for the making and consideration of representations in relation to an application and the procedure for enforcing access, where subsequent to authorisation, access is prevented.

Article 3 provides that if an authorisation is granted an applicant may enter land for such purposes as may be specified in the authorisation.

Article 4 provides the conditions that an applicant has to fulfil in order to make application for an authorisation to enter land.

Article 5 sets out how an application is to be made and the documentation which must be submitted in support of it.

Article 6 (with the Schedule) provides for the service by the applicant of notice, on specific persons, of the application and for a newspaper notice.

Article 7 makes provision relating to representations including the validity of representations.

Article 8 makes provision in relation to any hearing held to consider representations on an application.

Article 9 sets out provision regarding the determination of an application for entry to land, the noticing arrangements and in the case of access being authorised provision as to the date on which that authorisation shall have effect.

Article 10 sets out the procedures for an appeal to the Sheriff by any person aggrieved by an authorisation.

Article 11 sets out the circumstances where compensation can be recovered from the applicant. It also prescribes that any dispute shall be referred to and determined by the Lands Tribunal for Scotland.

Article 12 provides the circumstances in which the sheriff may grant a warrant and article 13 sets out the offence that a person commits in wilfully obstructing entry which has been authorised by virtue of a warrant.

A Regulatory Impact Assessment has been prepared in respect of this Order. A copy can be obtained from the Scottish Government Transport Directorate, Victoria Quay, Edinburgh EH6 6QQ.