
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULES

SCHEDULE 8

Section 67.

ORDERS AUTHORISING EXECUTION OF WORKS

PART I

General provisions

- 1 Where a river authority apply to the Minister for an order under section 67 of this Act, the authority shall submit to the Minister a draft of the order, and shall publish at least once in each of two successive weeks, in one or more newspapers circulating in the locality where the engineering or building operations are to be carried out, a notice—
 - (a) stating the general effect of the order as prepared in draft;
 - (b) specifying a place in the river authority area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice ; and
 - (c) stating that any person may, within that period, by notice in writing to the Minister object to the making of the order.
- 2 Not later than the date on which the notice is first published in pursuance of the preceding paragraph, the river authority shall serve a copy of the notice—
 - (a) on every local authority within whose area any of the engineering or building operations are to be carried out, and
 - (b) on every owner, lessee or occupier (except tenants for a month or for any period less than a month and statutory tenants within the meaning of Part II of the Housing Repairs and Rents Act 1954) of any land in relation to which compulsory powers (other than powers of compulsory acquisition) would become exercisable by the river authority if an order were made in the terms of the draft submitted by them.
- 3 The river authority shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Minister, naming every local authority on whom a notice is required to be served under the last preceding paragraph, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph 1 of this Schedule was published and the date of an issue containing the notice.
- 4 The river authority shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge, not exceeding two shillings, as the river authority think reasonable.
- 5 The Minister may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

any alteration, and considers that any persons are likely to be adversely affected by it, the river authority shall give and publish such additional notices, and in such manner, as the Minister may require.

6 If before the end of the period of twenty-eight days referred to in paragraph 1 of this Schedule, or of twenty-five days from the publication in the London Gazette of the notice under paragraph 3 of this Schedule, or of any period specified in notices under the last preceding paragraph, notice in writing of an objection is received by the Minister from any person on whom a notice is required to be served under this Schedule, or from any other person appearing to the Minister to be affected by the order as prepared in draft or as proposed to be altered, and the objection is not withdrawn, the Minister, before making the order, shall either—'

- (a) cause a local inquiry to be held, or
- (b) afford to the objector and to the river authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

7 In respect of any compulsory powers conferred by the order, other than powers of compulsory acquisition, compensation shall be payable in accordance with subsections (3) and (4) of section 66 of this Act, as if in those subsections—

- (a) any reference to the acquisition of the new right were a reference to the coming into operation of the order in so far as it confers those compulsory powers;
- (b) any reference to the servient land were a reference to the land in respect of which those powers are exercisable by virtue of the order; and
- (c) any reference to the relevant date were a reference to the date on which the order comes into operation;

and subsections (5) to (7) of section 46 of this Act shall have effect in relation to compensation payable by virtue of this paragraph as they have effect in relation to compensation payable under that section.

PART II

Orders conferring powers of compulsory acquisition

8 The persons on whom, under paragraph 2 of this Schedule, a copy of the notice referred to in that paragraph is required to be served shall include every owner, lessee or occupier (except tenants for a month or for any period less than a month and statutory tenants within the meaning of Part II of the Housing Repairs and Rents Act 1954) of any land comprised in the draft order as land authorised to be compulsorily acquired or land in or over which an interest or right is authorised to be compulsorily acquired, in so far as any such owner, lessee or occupier would not be included apart from this paragraph.

9 Where any objection received by the Minister under paragraph 6 of this Schedule relates to any powers of compulsory acquisition, the Minister may require the objector to state in writing the grounds of his objection; and if the Minister is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, he may disregard the objection for the purposes of paragraph 6 of this Schedule.

10 Notwithstanding anything in paragraph 5 of this Schedule, the order shall not, unless all interested parties consent, confer on the river authority powers to acquire

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- compulsorily any land, interest or right which they would not have been empowered to acquire by virtue of the order if the order had been made in the terms of the draft submitted by them.
- 11 Part III of Schedule 1 to the Act of 1946 (which makes special provision with respect to land of local authorities and statutory undertakers, common land, inalienable land of the National Trust and ancient monuments) shall apply to the order as it applies to a compulsory purchase order within the meaning of that Act.
- 12 (1) Subject to the following provisions of this paragraph, the Lands Clauses Acts shall be incorporated with section 67 of this Act in relation to the acquisition of any land, interest or right in the exercise of a power conferred by the order.
- (2) The provisions of Part I of Schedule 2 to the Act of 1946 (which specify certain exceptions and modifications subject to which the Lands Clauses Acts are (to be incorporated with any enactment by virtue of that Act) shall have effect with respect to the incorporation of those Acts with section 67 of this Act as if they were incorporated with that section by virtue of the Act of 1946, and as if the order were a compulsory purchase order made in accordance with the provisions of Schedule 1 to that Act.
- (3) The Lands Clauses Acts as so incorporated shall have effect subject to such further exceptions and modifications (if any) as may be specified in the order, and subject also to the provisions (where applicable) of paragraphs 13 and 14 of this Schedule.
- (4) Part II of Schedule 2 to the Act of 1946 (which provides for the incorporation of certain provisions of the Railways Clauses Consolidation Act 1845) shall have effect in relation to the order as if the order were a compulsory purchase order made in accordance with the provisions of Schedule 1 to the Act of 1946.
- (5) In relation to the acquisition of any land, interest or right in the exercise of a power conferred by the order, the Land Compensation Act 1961 shall have effect subject to the modification of that Act specified in Part III of Schedule 2 to the Act of 1946, and to such exceptions and further modifications (if any) as may be specified in the order, and to the provisions (where applicable) of paragraphs 13 and 14 of this Schedule.
- 13 (1) The provisions of this paragraph shall have effect with respect to the acquisition, in the exercise of any powers of compulsory acquisition conferred by the order, of an interest in or right over land by way of the creation of a new interest or right.
- (2) Subsections (2) to (5) of section 66 of this Act shall apply as they apply in relation to the acquisition of a new interest or right in the exercise of the powers conferred by section 65 of this Act.
- (3) The provisions of the last preceding paragraph shall have effect subject to any regulations made under subsection (6) of section 66 of this Act; and different provision may be made under that subsection according to whether the acquisition is under section 65 or section 67 of this Act.
- 14 Where, in connection with the engineering or building operations to which the order relates, a licence under Part IV of this Act is granted (or is deemed to be granted) to the river authority to abstract water or to obstruct or impede the flow of an inland water, no compensation shall be payable under section 68 of the Lands Clauses Consolidation Act 1845 in respect of any land or interest injuriously affected by the carrying out of those operations, in so far as that land or interest is injuriously affected by the abstraction of water, or the obstruction or impeding of the flow, in accordance with the provisions of the licence..

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- 15 As soon as may be after the order has been made, the river authority shall publish, in one or more newspapers circulating in the locality where the land in respect of which the powers of compulsory acquisition are conferred is situated, a notice describing that land and stating that the order has been made conferring powers of compulsory acquisition in respect of that land, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and the river authority shall serve a like notice and copy of the order on every such owner, lessee or occupier as is mentioned in paragraph 8 of this Schedule.
- 16 (1) Subject to the provisions of sub-paragraph (5) of this paragraph, if any person aggrieved by the order, or by a certificate under the special land provisions, desires to question—
- (a) the validity of the order, or of any provision of the order, on the grounds that any powers of compulsory acquisition conferred by the order are not authorised by section 67 of this Act to be so conferred, or that any of the relevant requirements have not been complied with in relation to the order, or
 - (b) the validity of the certificate, on the grounds that any of the relevant requirements have not been complied with in relation to the certificate,
- he may, at any time before the end of the period of six weeks beginning with the date on which notice of the making of the order is first published in accordance with the last preceding paragraph or, as the case may be, notice of the giving of the certificate is first published in accordance with the special land provisions, make an application for the purpose to the High Court.
- (2) On any application under this paragraph, the High Court—
- (a) may by interim order suspend the operation of the order, or any provision of the order, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;
 - (b) if satisfied that any powers of compulsory acquisition conferred by the order are not authorised by section 67 of this Act to be so conferred, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to 'the order or the certificate, may quash the order, or any provision of the order, or the certificate, either generally or in so far as it affects any property of the applicant.
- (3) Except as provided by the preceding provisions of this paragraph, the validity of—
- (a) the order, in so far as it confers any powers of compulsory acquisition, or
 - (b) any certificate given in connection with the order under the special land provisions,
- shall not, either before or after the order or certificate has been made or given, be questioned in any legal proceedings whatsoever.
- (4) Subject to the preceding provisions of this paragraph, the order (except where it is subject by virtue of the special land provisions to special parliamentary procedure) and any certificate given in connection with the order under the special land provisions shall become operative on the date on which notice of the making or giving thereof is published as mentioned in sub-paragraph (1) of this paragraph.
- (5) Where the order is subject to special parliamentary procedure, sub-paragraphs (1) to (3) of this paragraph—
- (a) shall not apply to the order if it is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) in any other case, shall have effect as if the reference in sub-paragraph (1) of this paragraph to the date on which notice of the making of the order is published as therein mentioned were a reference to the date on which the order becomes operative under the said Act of 1945.
- (6) In this paragraph " the special land provisions" means the provisions of Part III of Schedule 1 to the Act of 1946 as applied by virtue of this Schedule, and " the relevant requirements", in relation to an order or certificate, means any requirements of this Schedule or of the special land provisions which are applicable to that order or certificate.
- 17 In this Part of this Schedule "the Act of 1946 " means the Acquisition of Land (Authorisation Procedure) Act 1946.