

Changes to legislation: There are currently no known outstanding effects for the Docks and Harbours Act 1966, Paragraph 44. (See end of Document for details)

S C H E D U L E S

SCHEDULE 2 SECTION 44 OF 1964 ACT AS AMENDED

Modifications etc. (not altering text)

C1 The text of ss. 43(1), 44(1)–(7), 46(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 44 (1) A person who desires to question any such order as follows, namely a harbour revision or empowerment order (not being one confirmed by an Act of Parliament under section 6 of the ^{M1}Statutory Orders (Special Procedures) Act 1945, or under section 2(4), as read with section 10, of that Act) on the ground that there was no power to make the order or that a requirement of this Act was not complied with in relation to the order, or who desires to question an order under section 20 of this Act, on the ground that there was no power to make the order or that a requirement of this Act was not complied with in relation to the order so far as regards the inclusion therein of a provision authorising the compulsory acquisition of a parcel of land may, within six weeks from the date on which the order becomes operative under the said Act of 1945 (or, in the case of an order made under the said section 20, six weeks from the date on which it is made), make an application for the purpose to the High Court or the Court of Session, as the case may be.
- (1A) On an application under the foregoing subsection relating to a harbour revision or empowerment order, the court—
- (a) may, by interim order, suspend the operation of the order or of any provision thereof, either generally or so far as may be necessary for the protection of the interests of the applicant, until the final determination of the proceedings ; and
 - (b) if satisfied that there was no power to make the order or that the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement of this Act, may quash the order, or any provision thereof, either generally or so far as may be necessary as aforesaid.
- (2) On an application under subsection (1) of this section relating to an order under section 20 of this Act, the court—
- (a) may, by interim order, suspend the operation of the provision in question, either generally or so far as may be necessary for the protection of the interests of the applicant, until the final determination of the proceedings ; and
 - (b) if satisfied that there was no power to make the order or that the interests of the applicant have been substantially prejudiced by failure to comply with a requirement of this Act so far as regards the inclusion in the order of that

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provision, may quash the order, or any provision thereof, either generally or so far as may be necessary as aforesaid.

- (3) Except as provided by this section, a harbour revision or empowerment order shall not, either before or after it is made, be questioned in any legal proceedings whatever, and an order under section 20 of this Act shall not, either before or after it is made, be questioned in any legal proceedings whatever so far as regards the inclusion therein of a provision authorising the compulsory acquisition of a parcel of land.
- (4) The foregoing provisions of this section shall apply to a harbour reorganisation scheme confirmed by the Minister as they apply to a harbour revision order, with the substitution for references to the making of the order and to its being made of references respectively to the confirmation of the scheme and to its being confirmed.
- (5) In relation to proceedings in Scotland, subsections (1A)(a) and (2)(a) of this section shall have effect as if the words “by interim order” were omitted.

Marginal Citations

M1 1945 c. 18

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