

## SCHEDULES

### SCHEDULE 11

Sections 29 and 34.

#### PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART II

##### *Coming into operation*

- 1 (1) An original order or a restrictive amending order shall take effect on its being made.
- (2) It shall be the duty of the Secretary of State to consider every original order or restrictive amending order made by him or a relevant authority, and any such order shall cease to have effect nine months after it is made unless the Secretary of State has previously given notice under paragraph 6 that he has considered it and does not propose to amend or revoke it or he has amended or revoked it or, in the case of an order made by such an authority, the authority has revoked it.
- (3) An amending or revoking order, other than a restrictive amending order, made by a relevant authority shall be submitted by the authority to the Secretary of State for confirmation and shall not take effect until confirmed by him.
- (4) Subject to paragraphs 3(1) and 4(4), an amending or revoking order, other than a restrictive amending order, made by the Secretary of State shall not take effect until confirmed by him.
- (5) An amending or revoking order requiring confirmation shall, by virtue of this sub-paragraph, stand revoked if the Secretary of State gives notice under paragraph 6 that the order is not to be confirmed.

##### *Publicity for orders*

- 2 (1) Where an order takes effect immediately, the authority making the order (whether the relevant authority or the Secretary of State) shall give notice—
  - (a) setting out the order or describing its general effect and in either case stating that it has taken effect;
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours ; and
  - (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Where an order requires confirmation, the authority making the order shall give notice—
  - (a) setting out the order or describing its general effect and in either case stating that it has been made and requires confirmation ; and
  - (b) stating in relation to it the matters specified in sub-paragraph (1)(b) and (c).

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- (3) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) or (2) shall be given—
- (a) by publication in the Gazette and also at least one local newspaper circulating in the area in which the land to which the order relates is situated ;
  - (b) by serving a like notice on every owner and occupier of any of that land ; and
  - (c) in the case of a notice given by the Secretary of State, by serving a like notice on the relevant authority in whose area the land to which the order relates is situated.
- (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b); but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to " The owners and any occupiers " of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

#### *Unopposed orders*

- 3 (1) Where an order made by a relevant authority takes effect immediately and no representations or objections are duly made in respect of it or any so made are withdrawn.—
- (a) the Secretary of State shall as soon as practicable after considering it decide either to take no action on the order or to make an order amending or revoking it (subject, however, to paragraph 5); and
  - (b) the amending or revoking order shall take effect immediately, but it shall not require confirmation and no representation or objection with respect to it shall be entertained.
- (2) Where an order requiring confirmation is made and no representations or objections are duly made in respect of it or any so made are withdrawn, the Secretary of State may confirm the order (with or without modifications).

#### *Opposed orders*

- 4 (1) If any representation or objection duly made with respect to an order is not withdrawn, then, as soon as practicable in the case of an order having immediate effect and before confirming an order requiring confirmation, the Secretary of State shall either—
- (a) cause a local inquiry to be held ; or
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
- (2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the Secretary of State—
- (a) shall, if the order has already taken effect, decide either to take no action on the order or to make an order (subject, however, to paragraph 5) amending or revoking the order as the Secretary of State thinks appropriate in the light of the report, representations or objections, without consulting the relevant authority where that authority made the order; or
  - (b) if the order requires confirmation, may confirm it (with or without modifications).

- (3) The provisions of subsections (2) to (5) of section 250 of the Local Government Act 1972 or subsections (4) to (8) of section 210 of the Local Government (Scotland) Act 1973 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under this paragraph as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
- (4) An amending or revoking order made by virtue of this paragraph shall take effect immediately, but it shall not require confirmation and no representation or objection with respect to it shall be entertained.

*Restriction on power to amend orders or confirm them with modifications*

- 5       The Secretary of State shall not by virtue of paragraph 3(1) or 4(2) amend an order which has taken effect, or confirm any other order with modifications, so as to extend the area to which an original order applies.

*Notice of final decision on orders*

- 6       (1) The Secretary of State shall as soon as practicable after making an order by virtue of paragraph 3(1) or 4(2) give notice—
  - (a) setting out the order or describing its general effect and in either case stating that it has taken effect; and
  - (b) stating the name of the place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.
- (2) The Secretary of State shall give notice of any of the following decisions of his as soon as practicable after making the decision—
  - (a) a decision under paragraph 3(1) or 4(2) to take no action on an order which has already taken effect;
  - (b) a decision to confirm or not to confirm an order requiring confirmation under this Schedule.
- (3) A notice under this paragraph of a decision to confirm an order shall—
  - (a) set out the order as confirmed or describe its general effect, and in either case state the day on which the order took effect;
  - (b) state the name of the place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours.
- (4) A notice under this paragraph shall be given by publishing it in accordance with paragraph 2(3) and serving a copy of it on any person on whom a notice was required to be served under paragraph 2(3) or (4).

*Proceedings for questioning validity of orders*

- 7       (1) This paragraph applies to any order which has taken effect and as to which the Secretary of State has given notice under paragraph 6 of a decision of his to take no action or to amend the order in accordance with paragraph 3 or 4; and in this paragraph " the relevant notice " means any such notice.

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- (2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the ground that it is not within the powers of section 29 or 34, as the case may be, or that any of the requirements of this Schedule have not been complied with in relation to it, he may within six weeks from the date of the relevant notice make an application to the Court under this paragraph.
- (3) On any such application the Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements—
  - (a) in England and Wales, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant; or
  - (b) in Scotland, make such declarator as seems to the Court to be appropriate.
- (4) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.
- (5) In this paragraph " the Court" means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.

#### *Interpretation*

- 8 In this Schedule—
  - "amending order" and "revoking order" mean an order which amends or, as the case may be, revokes a previous order;
  - " the Gazette " means—
    - (a) if the order relates in whole or in part to England and Wales, the London Gazette ;
    - (b) if the order relates in whole or in part to Scotland, the Edinburgh Gazette ;
  - " order " means an order under section 29 or 34 ; " original order" means an order other than an amending or revoking order ;
  - "the relevant authority" has the same meaning as in section 34;
  - " restrictive amending order " means an amending order which extends the area to which a previous order applies.