

Status: Point in time view as at 16/07/2005.

Changes to legislation: Environmental Protection Act 1990, SCHEDULE 1 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 6.

AUTHORISATIONS FOR PROCESSES: SUPPLEMENTARY PROVISIONS

PART I

GRANT OF AUTHORISATIONS

Applications for authorisations

- 1 (1) An application to the enforcing authority for an authorisation must contain such information, and be made in such manner, as may be prescribed in regulations made by the Secretary of State.
- (2) An application to the enforcing authority for an authorisation must also, unless regulations made by the Secretary of State exempt applications of that class, be advertised in such manner as may be prescribed in regulations so made.
- (3) The enforcing authority may, by notice in writing to the applicant, require him to furnish such further information specified in the notice, within the period so specified, as the authority may require for the purpose of determining the application.
- (4) If a person fails to furnish any information required under sub-paragraph (3) above within the period specified thereunder the enforcing authority may refuse to proceed with the application.
- (5) Regulations under this paragraph may make different provision for different classes of applications.

Modifications etc. (not altering text)

C1 Sch. 1 para. 1(2) excluded (E.W.) (1.4.1991) and (S.) (1.4.1992) by S.I. 1991/507 regs. 6(1) and 7(4).

Determination of applications

- 2 (1) Subject to sub-paragraph (2) below, the enforcing authority shall give notice of any application for an authorisation, enclosing a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification.
- (2) The Secretary of State may, by regulations, exempt any class of application from the requirements of this paragraph or exclude any class of information contained in applications for authorisations from those requirements, in all cases or as respects specified classes only of persons to be consulted.

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- (3) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in determining the application.
- (4) For the purposes of sub-paragraph (1) above—
- (a) persons are prescribed to be consulted on any description of application for an authorisation if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;
 - (b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the enforcing authority;
- and the “specified period for notification” is the period specified in the regulations or in the direction.
- (5) Any representations made by any other persons within the period allowed shall also be considered by the enforcing authority in determining the application.
- (6) Subject to sub-paragraph (7) below, the period allowed for making representations is—
- (a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice of the application was given under sub-paragraph (1) above, and
 - (b) in the case of other persons, the period of twenty-eight days beginning with the date on which the making of the application was advertised in pursuance of paragraph 1(2) above.
- (7) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (6)(a) or (b) above, such other period as he considers appropriate.

Modifications etc. (not altering text)

- C2** Sch. 1 para. 2 excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507 reg. 6(1)
C3 Sch. 1 para. 2(1) excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507 reg. 7(2)

- 3 (1) The Secretary of State may give directions to the enforcing authority requiring that any particular application or any class of applications for an authorisation shall be transmitted to him for determination pending a further direction under sub-paragraph (5) below.
- (2) The enforcing authority shall inform the applicant of the fact that his application is being transmitted to the Secretary of State.
- (3) Where an application for an authorisation is referred to him under sub-paragraph (1) above the Secretary of State may—
- (a) cause a local inquiry to be held in relation to the application; or
 - (b) afford the applicant and the authority concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State;
- and he shall exercise one of the powers under this sub-paragraph in any case where, in the manner prescribed by regulations made by the Secretary of State, a request is made to be heard with respect to the application by the applicant or [^{F1}the enforcing authority] concerned.

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- (4) Subsections (2) to (5) of section 250 of the ^{M1}Local Government Act 1972 (supplementary provisions about local inquiries under that section) or, in relation to Scotland, subsections (2) to (8) of section 210 of the ^{M2}Local Government (Scotland) Act 1973 (which make similar provision) shall, without prejudice to the generality of subsection (1) of either of those sections, apply to inquiries in pursuance of sub-paragraph (3) above as they apply to inquiries in pursuance of either of those sections and, in relation to England and Wales, as if the reference to a local authority in subsection (4) of the said section 250 included a reference to the enforcing authority.
- (5) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the enforcing authority such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the authorisation.

Extent Information

E1 See s. 164(4)(5)

Textual Amendments

F1 Words in [Sch. 1 Pt. I para. 3\(3\)](#) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 93\(2\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art.3](#).

Marginal Citations

M1 [1972 c. 70](#).

M2 [1973 c. 65](#).

- 4 The Secretary of State may give the enforcing authority a direction with respect to any particular application or any class of applications for an authorisation requiring the authority not to determine or not to proceed with the application or applications of that class until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that they may do so, as the case may be.
- 5 (1) Except in a case where an application has been referred to the Secretary of State under paragraph 3 above and subject to sub-paragraph (3) below, the enforcing authority shall determine an application for an authorisation within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.
- (2) If the enforcing authority fails to determine an application for an authorisation within the period allowed by or under this paragraph the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.
- (3) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (1) above such other period as he considers appropriate and different periods may be substituted for different classes of application.

Modifications etc. (not altering text)

C4 [Sch. 1 para. 5\(1\)](#) modified (1.4.1991 for E.W. and 1.4.1992 for S.) by [S.I. 1991/513, arts. 2\(1\) and 3\(1\)\(3\)\(5\)\(6\)](#).

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PART II

VARIATION OF AUTHORISATIONS

Variations by the enforcing authority

- 6 (1) [^{F2}Except as provided by sub-paragraph (1A) below,] The requirements of this paragraph apply where an enforcing authority has decided to vary an authorisation under section 10 and is of the opinion that any action to be taken by the holder of the authorisation in consequence of the variation will involve a substantial change in the manner in which the process is being carried on.
- [^{F3}(1A) The requirements of this paragraph shall not apply in relation to any variations of an authorisation which an enforcing authority has decided to make in consequence of representations made in accordance with this paragraph and which are specified by way of variation of a variation notice by a further notice under section 10(3A) of this Act.]
- (2) Subject to sub-paragraph (3) below, the enforcing authority shall give notice of the action to be taken by the holder of the authorisation to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification; and the holder shall advertise the action in the manner prescribed in regulations made by the Secretary of State.
- (3) The Secretary of State may, by regulations, exempt any class of variation from all or any of the requirements of this paragraph or exclude any class of information relating to action to be taken by holders of authorisations from all or any of those requirements, in all cases or as respects specified classes only of persons to be consulted.
- (4) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in taking its decision.
- (5) For the purposes of sub-paragraph (2) above—
- (a) persons are prescribed to be consulted on any description of variation if they are persons specified for the purposes of variations of that description in regulations made by the Secretary of State;
 - (b) persons are directed to be consulted on any particular variation if the Secretary of State specifies them in a direction given to the enforcing authority;
- and the “specified period for notification” is the period specified in the regulations or in the direction.
- (6) Any representations made by any other persons within the period allowed shall also be considered by the enforcing authority in taking its decision.
- (7) Subject to sub-paragraph (8) below, the period allowed for making representations is—
- (a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice was given under sub-paragraph (2) above, and
 - (b) in the case of other persons, the period of twenty-eight days beginning with the date of the advertisement under sub-paragraph (2) above.

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- (8) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (7)(a) or (b) above, such other period as he considers appropriate.

Textual Amendments

- F2** Words in Sch. 1 Pt. I para. 6(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 93(3) (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.
- F3** Sch. 1 Pt. I para. 6(1A) inserted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 93(4) (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

Modifications etc. (not altering text)

- C5** Sch. 1 para. 6 excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507, reg. 6(1).
- C6** Sch. 1 para. 6(2) excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507, reg. 7(2)(4).

Applications for variation

- 7 (1) The requirements of this paragraph apply where an application is made to an enforcing authority under section 11(4) for the variation of an authorisation.
- (2) Subject to sub-paragraph (3) below, the enforcing authority shall give notice of any such application for a variation of an authorisation, enclosing a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification; and the holder of the authorisation shall advertise the application in the manner prescribed in regulations made by the Secretary of State.
- (3) The Secretary of State may, by regulations, exempt any class of application from all or any of the requirements of this paragraph or exclude any class of information furnished with applications for variations of authorisations from all or any of those requirements, in all cases or as respects specified classes only of persons to be consulted.
- (4) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in determining the application.
- (5) For the purposes of sub-paragraph (2) above—
- (a) persons are prescribed to be consulted on any description of application for a variation if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;
 - (b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the enforcing authority;
- and the “specified period for notification” is the period specified in the regulations or in the direction.
- (6) Any representation made by any other persons within the period allowed shall also be considered by the enforcing authority in determining the application.
- (7) Subject to sub-paragraph (8) below, the period allowed for making representations is—

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- (a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice of the application was given under sub-paragraph (2) above; and
 - (b) in the case of other persons, the period of twenty-eight days beginning with the date on which the making of the application was advertised in pursuance of sub-paragraph (2) above.
- (8) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (7)(a) or (b) above, such other period as he considers appropriate.

Modifications etc. (not altering text)

- C7** Sch. 1 para. 7 excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507, reg. 6(1)
C8 Sch. 1 para. 7(2) excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507, reg. 7(2)(4)

F⁴ Call in of applications for variation

Textual Amendments

- F4** Sch. 1 Pt. 1 paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 93(5) (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

- ^{F58} (1) The Secretary of State may give directions to the enforcing authority requiring that any particular application or any class of applications for the variation of an authorisation shall be transmitted to him for determination pending a further direction under sub-paragraph (5) below.
- (2) The enforcing authority shall inform the applicant of the fact that his application is being transmitted to the Secretary of State.
- (3) Where an application for the variation of an authorisation is referred to him under sub-paragraph (1) above the Secretary of State may—
- (a) cause a local inquiry to be held in relation to the application; or
 - (b) afford the applicant and the authority concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State;
- and he shall exercise one of the powers under this sub-paragraph in any case where, in the manner prescribed by regulations made by the Secretary of State, a request is made to be heard with respect to the application by the applicant or the enforcing authority concerned.
- (4) Subsections (2) to (5) of section 250 of the ^{M3}Local Government Act 1972 (supplementary provisions about local inquiries under that section) or, in relation to Scotland, subsections (2) to (8) of section 210 of the ^{M4}Local Government (Scotland) Act 1973 (which make similar provision) shall, without prejudice to the generality of subsection (1) of either of those sections, apply to local inquiries or other hearings in pursuance of sub-paragraph (3) above as they apply to inquiries in pursuance of either of those sections and, in relation to England and Wales, as if the reference to a local authority in subsection (4) of the said section 250 included a reference to the enforcing authority.

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- (5) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the enforcing authority such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the authorisation by means of the variation notice.

Textual Amendments

- F5** Sch. 1 Pt. 1 paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

Marginal Citations

- M3** 1972 c. 70.
M4 1973 c. 65.

- ^{F6}9 The Secretary of State may give the enforcing authority a direction with respect to any particular application or any class of applications for the variation of an authorisation requiring the authority not to determine or not to proceed with the application or applications of that class until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that they may do so, as the case may be.

Textual Amendments

- F6** Sch. 1 Pt. 1 paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

- ^{F7}10 (1) Except in a case where an application for the variation of an authorisation has been referred to the Secretary of State under paragraph 8 above and subject to subparagraph (3) below, the enforcing authority shall determine an application for the variation of an authorisation within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.]

Textual Amendments

- F7** Sch. 1 Pt. 1 paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

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