



Transport and Works Act 1992

1992 CHAPTER 42

PART I

ORDERS AUTHORISING WORKS ETC

Procedure for making orders

6 Applications for orders under sections 1 and 3.

- (1) Subject to section 7 below, the Secretary of State shall not make an order under section 1 or 3 above except on an application made to him in accordance with rules made under this section.
- (2) The Secretary of State may make rules as to—
 - (a) the form of an application under this section;
 - (b) the documents and information that must be submitted with it;
 - (c) the giving and publication of notices of an application;
 - (d) any other steps that must be taken before an application is made or in connection with the making of an application.
- (3) Any provision made by rules as to the consultation that must be carried out before an application is made may include provision requiring compliance with general or special directions given by the Secretary of State.
- (4) Rules under this section may make different provision for different cases, and may include provision authorising the Secretary of State—
 - (a) to dispense with compliance with rules that would otherwise apply, or
 - (b) to require compliance with rules that would not otherwise apply,in any case where he considers it appropriate to do so.
- (5) Rules may provide for fees of such amounts as may be determined by or in accordance with the rules to be payable to the Secretary of State on the making of applications under this section.

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- (6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

II Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

VALID FROM 07/10/1998

[^{F1}6A Cases where other Member States are affected

- (1) The power conferred on the Secretary of State by subsection (2) of section 6 above to make rules includes power to make rules for a case where an application has been made under that section and another Member State is affected by the project in question, as to—
- (a) the provision by the Secretary of State to the Member State, or to authorities in, or the public of, the Member State, of documents and information relating to the application;
 - (b) consultation by the Secretary of State with the Member State in connection with the application; or
 - (c) notification by the Secretary of State to the Member State of the decision, or of matters relating to the decision, on the application.
- (2) For the purposes of subsection (1) above, the cases where another Member State is affected by the project in question are those cases where—
- (a) it appears to the Secretary of State that the project would be likely to have significant effects on the environment in another Member State; or
 - (b) that other Member State is likely to be significantly affected by the project and requests information relating to the application.]

Textual Amendments

F1 S. 6A inserted (7.10.1998) by S.I. 1998/2226, art. 3

7 Orders under sections 1 and 3 made otherwise than on application.

- (1) The Secretary of State may without any application being made to him make—
- (a) an order under section 1 above which relates to, or to matters ancillary to, the construction for naval, military, air force or other defence purposes of a railway, tramway or other system within section 1(1), or the operation of a railway, tramway or other system constructed for those purposes;
 - (b) an order under section 1 or 3 above making any provision which appears to the Secretary of State to be necessary or expedient, in the interests of safety,—
 - (i) for the purpose of suspending or discontinuing any operations, or
 - (ii) in consequence of the abandonment or neglect of any works;

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- (c) an order under section 1 or 3 above repealing or revoking provisions which appear to the Secretary of State to be spent.
- (2) An order made by virtue of subsection (1)(b) above may include provision for the recovery by the Secretary of State of the costs of making the order and of carrying its provisions into effect.
- (3) Where the Secretary of State proposes to make an order by virtue of this section, he shall—
- (a) prepare a draft of the order,
 - (b) publish a notice of the proposal, containing such particulars as may be prescribed, in the London Gazette and in a local newspaper circulating in the area (or each of the areas) in which any proposed works are to be carried out, and
 - (c) give such further notices of the proposal as may be prescribed.
- (4) The power to make provision by rules under section 6 above in relation to applications shall include power to make such corresponding provision as the Secretary of State considers appropriate in relation to proposals to make orders by virtue of this section; and in subsection (3) above “prescribed” means prescribed by rules under section 6.

Modifications etc. (not altering text)

C1 S. 7(4) modified (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

Commencement Information

I2 Pt. 1 (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

8 Model clauses.

- (1) The Secretary of State may by order prescribe model provisions for incorporation in any draft orders which, in accordance with rules made under section 6 above, may be required to be submitted with applications under that section.
- (2) Different provisions may be prescribed under this section for different cases.
- (3) The prescribing under this section of a model provision shall not of itself make it mandatory for a provision in the terms of the model to be incorporated in a draft order or in any order eventually made by the Secretary of State under section 1 or 3 above.
- (4) The power to make orders under this section shall be exercisable by statutory instrument.

Modifications etc. (not altering text)

C2 S. 8 modified (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

Commencement Information

I3 Pt. 1 (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

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9 Schemes of national significance.

- (1) This section applies where an application made under section 6 above relates (wholly or in part) to proposals which in the opinion of the Secretary of State are of national significance.
- (2) Before the end of the period of 56 days beginning with the day on which he receives the application, the Secretary of State shall publish in the London Gazette a notice identifying the application and the proposals which in his opinion are of national significance.
- (3) On, or as soon as practicable after, the day on which the notice required by subsection (2) above is published, the Secretary of State shall—
 - (a) publish a like notice in a local newspaper circulating in the area (or each of the areas) in which any proposed works are to be carried out, and
 - (b) send a copy of the notice to the applicant and to every person within section 11(4) below who objected to the application in accordance with rules made under section 10 below.
- (4) The Secretary of State shall not make an order on the application unless each House of Parliament, on a motion moved by a Minister of the Crown which identifies the proposals referred to above, passes a resolution approving them at some time later than 56 days after the day of publication of the notice required by subsection (2) above.
- (5) An order made on the application shall not include any provision that is inconsistent with a proposal approved by a resolution in accordance with this section unless that provision gives effect to modifications of the proposal which have themselves been approved by a resolution of each House of Parliament passed on a motion moved by a Minister of the Crown.
- (6) This section shall apply in relation to an order which the Secretary of State makes or proposes to make by virtue of section 7 above as it applies in relation to an order for which an application is made to him, except that in such a case—
 - (a) subsections (2) and (3) above shall not apply, and
 - (b) subsection (4) above shall apply as if the reference to the notice required by subsection (2) above were a reference to the notice required by section 7(3) above to be published in the London Gazette;
 and any proposals which in the opinion of the Secretary of State are of national significance shall be identified as such in any notice required by or under section 7(3) above.

Modifications etc. (not altering text)

C3 S. 9 modified (18.12.1996) by 1996 c. 61, s. 42

Commencement Information

I4 Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

10 Objections.

- (1) The Secretary of State may make rules as to—
 - (a) the making of objections to an application under section 6 above or to a proposal to make an order by virtue of section 7 above;

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- (b) the information to be comprised within or submitted with an objection;
 - (c) the submission by the person making the application of written representations or information in relation to objections;
 - (d) the submission of further written representations or information;
 - (e) such other matters relating to the consideration of objections as appear to the Secretary of State to be appropriate.
- (2) Subject to the following provisions of this section, the Secretary of State shall not make a determination under section 13(1) below to make an order without first taking into consideration the grounds of any objection in respect of which rules under this section have been complied with.
- (3) If an objection is withdrawn or appears to the Secretary of State—
- (a) to be frivolous or trivial, or
 - (b) to relate to matters which fall to be determined by a tribunal concerned with the assessment of compensation,
- he may make a determination under section 13(1) below without further consideration of the objection.
- (4) Subsection (2) above shall not apply where the Secretary of State causes an inquiry to be held under section 11(1) below or causes an objection to be dealt with in accordance with section 11(2) below, but the Secretary of State shall not make a determination under section 13(1) below without first taking into consideration the report of the person holding the inquiry, or as the case may be of the person appointed under section 11(2).
- (5) Rules under this section may make different provision for different cases, and may include provision authorising the Secretary of State—
- (a) to dispense with compliance with rules that would otherwise apply, or
 - (b) to require compliance with rules that would not otherwise apply,
- in any case where he considers it appropriate to do so.
- (6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C4 [S. 10](#) modified (1.7.1999) by [S.I. 1999/672](#), [art. 5](#), [Sch. 2](#)

Commencement Information

I5 [Pt. I](#) (ss. 1-25) wholly in force at 1. 1. 1993 see [s. 70](#) and [S.I. 1992/2784](#), [art. 2](#), [Sch. 1](#).

11 Inquiries and hearings.

- (1) The Secretary of State may cause a public local inquiry to be held for the purposes of an application under section 6 above or a proposal by the Secretary of State to make an order by virtue of section 7 above.
- (2) The Secretary of State may give to a person who makes an objection in accordance with rules under section 10 above an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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- (3) Where an objection is made by a person within subsection (4) below who informs the Secretary of State in writing that he wishes the objection to be referred to an inquiry or dealt with in accordance with subsection (2) above, then, unless section 10(3) above applies, the Secretary of State shall either cause an inquiry to be held or, if he so determines, cause the objection to be dealt with in accordance with subsection (2).
- (4) The persons within this subsection are—
- (a) any local authority for an area in which any works authorised by the proposed order are to be carried out, and
 - (b) where the proposals include the compulsory acquisition of land, any person who, if Part II of the ^{M1}Acquisition of Land Act 1981 (notice to owners, lessees and occupiers) applied to the acquisition, would be entitled to a notice under section 12 of that Act;
- and for the purposes of paragraph (a) above “local authority” means a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly and a Passenger Transport Executive.
- (5) Subsections (2) to (5) of section 250 of the ^{M2}Local Government Act 1972 (attendance and evidence at, and costs of, inquiries) shall apply to an inquiry held under subsection (1) above; but—
- (a) in its application by virtue of this subsection, section 250(4) shall have effect with the omission of the words “and any amount” onwards, and
 - (b) the power to make an order as to costs under section 250(5) as applied by this subsection shall be exercisable not only where the inquiry takes place but also where arrangements are made for it but it does not take place.
- (6) Subsections (4) and (5) of section 250 of the Local Government Act 1972 (costs) shall apply in relation to proceedings under subsection (2) above as they apply in relation to an inquiry under subsection (1) above.

Modifications etc. (not altering text)

C5 S. 11(4) modified (1.6.1993) by S.I. 1993/1119, reg. 4(2), **Sch.2**

Commencement Information

I6 Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, **Sch. 1**.

Marginal Citations

M1 1981 c. 67.

M2 1972 c. 70.

12 Special parliamentary procedure.

- (1) An order under section 1 or 3 above authorising a compulsory purchase shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 (or by virtue of paragraph 5 or 6 of Schedule 3 to that Act) (National Trust land, commons etc), if the purchase were authorised by an order under section 2(1) of that Act.

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- (2) In section 3 of the ^{M3}Statutory Orders (Special Procedure) Act 1945 (petitions against orders subject to special parliamentary procedure) after subsection (4) there shall be inserted—

“(4A) The Chairmen shall not certify that a petition is proper to be received if the order to which it relates is made under section 1 or 3 of the Transport and Works Act 1992 and either—

- (a) the petition is a petition of general objection and the order relates to proposals which have been approved by each House of Parliament in accordance with section 9 of that Act, or
- (b) the petition is a petition for amendment and any of the amendments asked for would in the opinion of the Chairmen be inconsistent with such proposals.”

- (3) In relation to an order under section 1 or 3 above which is subject to special parliamentary procedure—

- (a) section 13(5) below shall not apply,
- (b) section 22 below shall not apply if the order is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, and
- (c) in any other case, section 22(1) below shall have effect as if for the reference to the day on which the notice required by section 14(1)(b) is published there were substituted a reference to the day on which the order comes into operation under the ^{M4}Statutory Orders (Special Procedure) Act 1945.

Commencement Information

I7 Pt. 1 (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

Marginal Citations

M3 1945 c. 18 (9 & 10 Geo. 6).

M4 1945 c. 18 (9 & 10 Geo. 6).

13 Making or refusal of orders under section 1 or 3.

- (1) Where an application has been made to the Secretary of State under section 6 above, or he proposes to make an order by virtue of section 7 above, and (in either case) the requirements of the preceding provisions of this Act in relation to any objections have been satisfied, he shall determine—

- (a) to make an order under section 1 or 3 above which gives effect to the proposals concerned without modifications, or
- (b) to make an order which gives effect to those proposals with modifications, or
- (c) not to make an order.

- (2) Where an application has been made to the Secretary of State under section 6 above and he considers that any of the objects of the order applied for could be achieved by other means, he may on that ground determine not to make the order (but this subsection is without prejudice to subsection (3) below).

- (3) The power of the Secretary of State to make a determination under subsection (1) above includes power to make a determination in respect of some only of the proposals concerned, while making a separate determination in respect of, or deferring

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consideration of, others (and accordingly the power to make an order under section 1 or 3 above includes power to make two or more orders on the same application).

- (4) Where the Secretary of State proposes to make an order which gives effect to the proposals concerned with modifications which will in his opinion make a substantial change in the proposals—
- (a) he shall notify any person who appears to him to be likely to be affected by the modifications,
 - (b) he shall give that person an opportunity of making representations to him about the modifications within such period as he may specify in the notice, and
 - (c) he shall before making the order consider any representations duly made to him.
- (5) An order under section 1 or 3 above shall come into operation on the date on which the notice required by subsection (1)(b) of section 14 below is first published, or on such later date, if any, as may be specified in the order.

Commencement Information

18 Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

14 Publicity for making or refusal of orders.

- (1) As soon as practicable after making a determination under section 13(1) above, the Secretary of State shall—
- (a) give notice of the determination to the person (if any) who applied for the order and to every person who made an objection which was referred to an inquiry or hearing in accordance with section 11(3) above, and
 - (b) publish a notice of the determination in the London Gazette.
- (2) A notice under subsection (1)(a) above shall state the reasons for the determination.
- (3) A notice under subsection (1) above of a determination to make an order shall give such particulars of the terms of the order as the Secretary of State considers appropriate, and in particular shall (except where the order is made by virtue of section 7 above) state the name and address of the person who applied for the order.
- (4) Where the Secretary of State determines to make an order, the person who applied for the order (or, where the order is made by virtue of section 7 above, the Secretary of State) shall publish a copy of the notice given to him under subsection (1) above in a local newspaper circulating in the area (or each of the areas) in which any works authorised by the order are to be carried out.
- (5) As soon as practicable after the making of an order under section 1 or 3 above, the person who applied for the order (or, where the order is made by virtue of section 7 above, the Secretary of State) shall—
- (a) deposit in the office of the Clerk of the Parliaments a copy of the order, and of any plan or book of reference prepared in connection with the application (or proposed order), and
 - (b) deposit with each of the councils mentioned in subsection (7) below in whose area works authorised by the order are to be carried out a copy of each of those documents, or of so much of them as is relevant to those works.

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- (6) Where a plan or book of reference is revised before the order is made, the reference in subsection (5)(a) above is to the latest version.
- (7) The councils referred to in subsection (5) above are district councils, London borough councils and the Common Council of the City of London.
- (8) A council with which documents are deposited in accordance with subsection (5) above shall make them available for inspection free of charge at all reasonable hours.

Commencement Information

19 Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, Sch. 1.

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