

## SCHEDULE 2

Article 3(1)

### FUNCTIONS OF THE SECRETARY OF STATE EXERCISABLE JOINTLY WITH THE PLANNING MINISTER

#### *Functions relating to the making of highway orders and schemes*

**1.**—(1) For paragraphs 5 and 6 of Schedule 1 to the Highways Act 1959 there shall be substituted the following paragraphs:—

“**5.**—(1) If any objection to the proposed order—

- (a) is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 of this Schedule within the period specified in the notice in pursuance of paragraph 1(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 4A of this Schedule, within the period specified in the subsequent notice, or
- (b) is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be,

and the objection is not withdrawn, then—

- (i) in the case of an order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly, or
- (ii) in the case of an order made by a local highway authority and submitted to the Secretary of State, the Secretary of State,

shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

(2) Except where the objection is made by a person entitled to receive a copy of the notice relating to the order in question by virtue of the said paragraph 3 and such one or more of the following heads of the Table set out at the end of that paragraph, that is to say, heads (i), (ii), (iii) and (iv), as apply in the case of that order, the Secretary of State and the planning Minister acting jointly or, as the case may be, the Secretary of State may, if satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary, dispense with such an inquiry.

**6.** After any objections to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry have been considered—

- (a) in the case of an order proposed to be made by the Secretary of State, by the Secretary of State and the planning Minister acting jointly, or
- (b) in the case of an order made by a local highway authority and submitted to the Secretary of State, by the Secretary of State,

the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.”

(2) For paragraphs 9 and 10 of the said Schedule 1 there shall be substituted the following paragraphs:—

“**9.**—(1) If any objection to the proposed scheme—

- (a) is received by the Secretary of State from any council or authority on whom a copy of the notice is required to be served under paragraph 8 of this Schedule within the period specified in the notice in pursuance of paragraph 7(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 8A of this Schedule, within the period specified in the subsequent notice, or

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(b) is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be, and the objection is not withdrawn, then—

- (i) in the case of a scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly, or
- (ii) in the case of a scheme made by a local highway authority and submitted to the Secretary of State, the Secretary of State,

shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

(2) Except where the objection is made by any such council or authority as aforesaid, the Secretary of State and the planning Minister acting jointly or, as the case may be, the Secretary of State may, if satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary, dispense with such an inquiry.

**10.** After any objections to the proposed scheme which are not withdrawn and, where a local inquiry, is held, the report of the person who held the inquiry have been considered—

- (a) in the case of a scheme proposed to be made by the Secretary of State, by the Secretary of State and the planning Minister acting jointly, or
- (b) in the case of a scheme made by a local highway authority and submitted to the Secretary of State, by the Secretary of State,

the Secretary of State may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.”

(3) At the end of the said Schedule 1 there shall be inserted as Part III the following Part:—

### “PART III

#### SUPPLEMENTAL

**12.** In this Schedule ‘the planning Minister’ means the Secretary of State for the time being having general responsibility in planning matters in relation to England or Wales, as the case may be.

**13.** This Schedule shall have effect as if references to the Secretary of State and the planning Minister acting jointly—

- (a) were references to the Secretary of State and the planning Minister acting jointly, if the planning Minister is not the one concerned as the Secretary of State; and
- (b) were references to the one concerned as the Secretary of State acting alone, if he is also the planning Minister.”

**2.—(1)** In subsection (4) of section 14 of the Highways Act 1971 after the words “Secretary of State” there shall be inserted the words “or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly”.

(2) In subsection (5) of the said section 14 after the words “Secretary of State”, in the first place where they occur, there shall be inserted the words “or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly”.

(3) In subsection (6) of the said section 14 for the word “has”, in the first place where it occurs, there shall be substituted the words “or the Secretary of State and the planning Minister acting jointly have,” and after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, as the case may be, those Ministers”.

(4) In subsection (8) of the said section 14 after the words “Secretary of State”, in the third place where they occur, there shall be inserted the words “or, in the case of an order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly” and for the words “his opinion” there shall be substituted the words “his or their opinion”.

(5) After subsection (8) of the said section 14 there shall be inserted the following subsection:—

“(8A) In this section and in section 15 of this Act ‘the planning Minister’ has the same meaning as in Schedule 1 to the principal Act and references to the Secretary of State and the planning Minister acting jointly shall be construed as if they were contained in that Schedule.”

3. In section 15(2) of the Highways Act 1971 for the words from “and before” to the end there shall be substituted the words “and before the Secretary of State exercises the power, the Secretary of State or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly shall consider any representations made to the Secretary of State with respect to the proposed modifications within that period.”

*Functions relating to the compulsory acquisition of land for highway purposes*

4. In Part II of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946, in paragraph 7 sub-paragraph (4) shall be omitted, and after that paragraph there shall be inserted the following paragraphs:—

“7A. Paragraph 3 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order, so however that the publication and service or affixing of notices required by that paragraph shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

7B.—(1) If no objection is duly made by any such owner, lessee or occupier as is mentioned in paragraph 3 or if all objections so made are withdrawn, the Minister, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order with or without modifications.

(2) If any objection made as aforesaid is not withdrawn, then, before the Minister makes the order,—

- (a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, the Minister and the planning Minister acting jointly;
- (b) in any other case, the Minister,

shall either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by them or him for the purpose.

(3) After the objection and the report of the person who held the inquiry or the person appointed as aforesaid have been considered—

- (a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, by the Minister and the planning Minister acting jointly;
- (b) in any other case, by the Minister,

the Minister may make the order either with or without modifications.

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(4) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Minister and the planning Minister acting jointly or, as the case may be, the Minister shall afford to any persons to whom it appears to them or him expedient to afford it an opportunity of being heard on the same occasion.

(5) Notwithstanding anything in sub-paragraphs (2) and (4) above, the Minister and the planning Minister acting jointly or, as the case may be, the Minister may require any person who has made an objection to state in writing the grounds thereof, and may, if satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by which the compensation is assessed, disregard the objection for the purposes of this paragraph.

(6) In this paragraph “highway land acquisition powers” has the same meaning as in the Highways Act 1971 and “the planning Minister” means the Secretary of State for the time being having general responsibility in planning matters in relation to England or Wales, as the case may be.

(7) This paragraph shall have effect as if references to the Minister and the planning Minister acting jointly—

- (a) were references to the Minister and the planning Minister acting jointly, if the planning Minister is not the one concerned as the Minister; or
- (b) were references to the one concerned as the Minister acting alone, if he is also the planning Minister.

7C. Paragraphs 5 and 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order.”

5.—(1) In subsection (1) of section 54 of the Highways Act 1971 after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, in the case of a compulsory purchase order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly” and for the words “his opinion” there shall be substituted the words “his or their opinion”.

(2) In subsection (2) of the said section 54 for the words “the Secretary of State”, in the second place where they occur, there shall be substituted the words “or by the Secretary of State and the planning Minister acting jointly, the Secretary of State or, as the case may be, those Ministers”.

(3) In subsection (3) of the said section 54 for the word “has”, in the first place where it occurs, there shall be substituted the words “or the Secretary of State and the planning Minister acting jointly have” and after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, as the case may be, those Ministers”.

(4) At the end of the said section 54 there shall be inserted the following subsection—

“(4) In this section ‘the planning Minister’ has the same meaning as in paragraph 7B of Schedule 1 to the Act of 1946 and references to the Secretary of State and the planning Minister acting jointly shall be construed as if they were references to the Minister and the planning Minister acting jointly and were contained in that paragraph.”

6. In section 55(2) of the Highways Act 1971 for the words “paragraph 7(4)” there shall be substituted the words “paragraph 7C”.

#### *Supplemental*

7.—(1) Nothing in this Schedule shall affect the validity of anything done by or in relation to the Secretary of State before the coming into operation of this Order; and anything which at the coming

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into operation of this Order is in the process of being done by or in relation to the Secretary of State may, if it relates to functions which by virtue of any amendment made by this Schedule are to be exercised by the Secretary of State and the planning Minister acting jointly, be continued by or in relation to the Secretary of State acting jointly with that Minister.

(2) Any instrument made before the coming into operation of this Order shall have effect, so far as may be necessary for the purpose or in consequence of the amendments made by this Schedule, as if any reference to the Secretary of State, and any reference which includes such a reference, were or included a reference to the Secretary of State and the planning Minister acting jointly.