

*Changes to legislation:* There are currently no known outstanding effects for the Countryside (Scotland) Act 1967, Part I. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

#### PROVISIONS AS TO MAKING CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN ORDERS

##### Modifications etc. (not altering text)

- C1** Sch. 3 extended by Post Office Act 1969 (c. 48), Sch. 4 para. 93(1)(xxvii) and Civil Aviation Act 1971 (c. 75), Sch. 5 para. 5(x)

#### PART I

##### PROVISIONS FOR MAKING AND CONFIRMING ACCESS ORDERS AND CERTAIN ORDERS RELATING TO PUBLIC PATHS

- 1 (1) Before [<sup>F1</sup>a body makes]<sup>F2</sup>..., a public path creation order, a public path extinguishment order or a public path diversion order [<sup>F3</sup>it] shall give notice in the prescribed form—
- <sup>F4</sup>(a) stating the general effect of the order and that it is about to be made and, subject to paragraph 2(1A) of this Schedule, submitted for confirmation,]
  - (b) naming a place in the area in which the land to which the order relates is situated where a [<sup>F5</sup>draft] of the order and of the map referred to therein may be inspected free of charge at all reasonable hours, and
  - (c) specifying the time (not being less than twenty-eight 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 [<sup>F6</sup>draft] order may be made.
- (2) ..... <sup>F7</sup>
- (3) The notices to be given under [<sup>F8</sup>sub-paragraph (1) above] shall be given—
- (a) in the case of <sup>F9</sup>... a public path creation order, by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and by serving a like notice on every owner, occupier and tenant (except tenants for a month or any period less than a month and statutory tenants within the meaning of [<sup>F10</sup>the <sup>M1</sup>Rent (Scotland) Act 1971]) of any of that land, so however that—
    - (i) except in the case of an owner, occupier or tenant being a local authority, local planning authority or statutory undertaker, the Secretary of State may in any particular case direct that it shall not be necessary to serve notice as aforesaid if in his opinion it is not reasonably practicable to do so, but
    - (ii) if the Secretary of State so directs in the case of any land, then in addition to publication the notice shall be addressed to “the owners

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- and any occupiers” of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land;
- (b) in the case of a public path extinguishment order or a public path diversion order, by publication and the service of notices as mentioned in head (a) of this sub-paragraph and also—
- (i) by serving such a notice as is therein mentioned on every local authority and local planning authority whose area includes any of the land to which the order relates, and
  - (ii) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any public path as is to be closed or diverted by virtue of the order.

#### Textual Amendments

- F1** Words in Sch. 3 para. 1(1) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), **Sch. 10**, para. 4(11)(a)(i); S.I. 1991/2633, **art.4**.
- F2** Words in Sch. 3 para. 1(1) repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(f)** (with s. 100(2), Sch. 2 paras. 6, 7); S.S.I. 2005/17, art. 2(b)
- F3** Words in Sch. 3 para. 1(1) substituted (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), **Sch. 10**, para. 4(11)(a)(ii); S.I. 1991/2633, **art.4**.
- F4** Sch. 3 para. 1(1)(a) substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 11(a)(iii)**
- F5** Word substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 11(a)(iv)**
- F6** Word inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 11(a)(v)**
- F7** Sch. 3 para. 1(2) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 4 Pt. I**
- F8** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), **Sch. 3 para. 11(c)**
- F9** Words in Sch. 3 para. 1(3) repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 4(f)** (with s. 100(2)); S.S.I. 2005/17, art. 2(b)
- F10** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. 17(2)(a)

#### Marginal Citations

- M1** 1971 c. 28.

2 <sup>F11</sup>(1A) If an authority have given notice under paragraph 1(1) above <sup>F12</sup>..., and no representations or objections are duly made in terms of paragraph 1(1)(c) of this Schedule or if any so made are withdrawn, then, subject to the provisions of Part II of this Schedule, the order shall on being made by them have effect without their having to submit it to the Secretary of State and without his confirmation. ]

<sup>F13</sup>(1) In the case of an order other than one which has effect under sub-paragraph (1A) above, if] no representations or objections are duly made [<sup>F14</sup>in terms of sub-paragraph (1)(c) of paragraph 1 of this Schedule], or if any so made are withdrawn, the Secretary of State may, if he thinks fit, confirm . . . <sup>F15</sup> the order . . . <sup>F15</sup> with or without modifications or conditions.

- (2) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming . . . <sup>F15</sup> the order, either—
- (a) cause a local inquiry to be held, or

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- (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose.

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm . . . <sup>F15</sup> the order . . . <sup>F15</sup> with or without modifications or conditions:

Provided that [<sup>F16</sup>, where objection is made by statutory undertakers to a public path creation order or a public path diversion order,] on the ground that the order provides for the creation of a right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

- (3) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm . . . <sup>F15</sup> an order so as to affect land not affected by the order as submitted to him . . . <sup>F15</sup> except after—

- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight 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 proposal may be made,
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose, and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

and [<sup>F17</sup>, where objection is made by statutory undertakers to a public path creation order or a public path diversion order,] on the ground that the order as modified would provide for the creation of a right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

#### Textual Amendments

- F11** Sch. 3 para. 2(1A) added by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(i\)](#)
- F12** Words in [Sch. 3 para. 2\(1A\)](#) repealed (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), [Sch. 2 para. 4\(f\)](#) (with s. 100(2)); S.S.I. 2005/17, art. 2(b)
- F13** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(ii\)](#)
- F14** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(ii\)](#)
- F15** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 4 Pt. I](#)
- F16** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(v\)](#)
- F17** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), [Sch. 3 para. 11\(d\)\(v\)](#)

- 3 (1) Subject to the provisions of this Part of this Schedule, the procedure on the submission and confirmation of orders to which this Schedule applies shall be such as may be prescribed.

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- (2) Provision may be prescribed for enabling proceedings preliminary to the confirmation of a public path extinguishment order to be taken concurrently with proceedings preliminary to the confirmation of a public path creation or a public path diversion order.

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