

*Status: Point in time view as at 01/02/1991.*

**Changes to legislation:** *Water (Scotland) Act 1980, Cross Heading: Orders made by the Secretary of State under section 17(2) and (if made on application of water authority or water development board) sections 19, 29(2) and 107(1)). is up to date with all changes known to be in force on or before 30 May 2023. 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

#### PROCEDURE FOR MAKING ORDERS AND MAKING AND CONFIRMING BYELAWS

##### PART I

*Orders made by the Secretary of State under section 17(2) and (if made on application of water authority or water development board) sections 19, 29(2) and 107(1)).*

- 1 Applicants for any order to which this part of this Schedule applies shall submit to the Secretary of State a draft of the order which they desire him to make and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—
  - (a) stating the general effect of the order;
  - (b) specifying a place in or near the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice;
  - (c) stating that within the said period any person may by notice to the Secretary of State object to the application.
  
- 2 Not later than the date on which the said notice is first published, the applicants shall serve a copy thereof—
  - (i) on the water authority, regional council, district council and water development board for every area affected by the order along with a copy of the draft order;
  - (ii) where it is proposed that the order shall authorise the acquisition of rights to take water, on the fishery district board of any fishery district from which water is to be taken under the rights acquired, on any navigation authority exercising functions in relation to any watercourse from which water is to be taken under the rights acquired and on any public undertakers [<sup>F1</sup>or licence holder within the meaning of Part I of the Electricity Act 1989] known by the applicants to be authorised by [<sup>F1</sup>or by virtue of] any enactment to take or use water from any such watercourse and in the case of an order under section 17(2), where the river purification authority within whose area the stream affected is situated are not the same authority as the applicants, on that authority.

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**Textual Amendments**

**F1** Words inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 26(2)(a)**

3 The applicants shall also publish in the Edinburgh Gazette a notice stating that they are about to apply for an order under the appropriate section, naming the limits of supply of the water authority and the area of the water development board affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.

4 The applicants shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge <sup>F2</sup> as they think reasonable.

**Textual Amendments**

**F2** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), s. 41, **Sch. 4**

5 The Secretary of State may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons other than the applicants may be adversely affected thereby, he shall require the applicants to give and publish additional notices in such manner as he thinks best adapted for informing all persons so affected of the modification proposed.

6 If before the expiration of the 28 days referred to in paragraph 1 of this Schedule or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from any authority or board or undertakers [<sup>F3</sup>or licence holder] on whom a notice is required to be served under paragraph 2 of this Schedule, or from any other person appearing to him to be affected by the application, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State, before making any order on the application, shall cause a local inquiry to be held.

**Textual Amendments**

**F3** Words inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 26(2)(b)**

7 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order, the Secretary of State shall give to any person who has duly objected thereto, and has not withdrawn his objection, notice as to the order which he proposes to make, and shall not make the order until the expiration of 28 days from the date of the notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

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8           The expenses incurred by the Secretary of State in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by the applicants and the Secretary of State may, in a case where there are two or more applicants, apportion such expenses between them.

9           ..... F4

**Textual Amendments**

**F4**   Sch. 1 para. 9 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**

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