

SCHEDULES

SCHEDULE 6

AMENDMENTS OF THE HARBOURS ACT 1964

*Harbour revision and empowerment orders not subject
to special parliamentary procedure in certain cases*

- 4 (1) Sections 14(6) and 16(8) (which make all harbour revision and empowerment orders subject to special parliamentary procedure) are repealed ; but Schedule 3 is amended as follows.
- (2) In Part I of that Schedule (procedure for the making of orders on application to the Secretary of State), after paragraph 4 there is inserted—
- “4A (1) The provisions of this paragraph have effect where the Secretary of State makes—
- (a) a harbour revision order relating to a harbour in England or Wales ; or
 - (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales,
- and, in either case, the order is opposed.
- (2) For the purposes of this paragraph an order is opposed if—
- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 4 above or which in his opinion is frivolous or trivial; or
 - (b) a comment in writing on proposed modifications to the order applied for has been duly made to the Secretary of State and not withdrawn, which in his opinion would if duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;
- and references in this paragraph to a person opposing the order shall be construed accordingly.
- (3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.
- (4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn

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within that period, the order shall be subject to special parliamentary procedure.

4B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or to works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.”.

(3) In paragraph 5 (duties of applicant after making of order), at the end of sub-paragraph (a) (duty to publish notices) there is inserted " and further stating, in the case of an order to which paragraph 4B above does not apply, whether the order is affected by the provisions of paragraph 4A above and, where it is not so affected, the date on which it came or will come into operation ".

(4) After paragraph 5 there is inserted—

“5A Where an order is affected by the provisions of paragraph 4A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement a notice stating that the order is not so subject and indicating the date on which it came or will come into operation.”.

(5) In Part II of that Schedule (procedure for the making of orders by the Secretary of State of his own motion), after paragraph 8 there is inserted—

“8A (1) The provisions of this paragraph have effect where the Secretary of State makes—

- (a) a harbour revision order relating to a harbour in England or Wales ; or
- (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales,

and, in either case, the order is opposed.

(2) For the purposes of this paragraph an order is opposed if—

- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 8 above or which in his opinion is frivolous or trivial; or
- (b) a comment in writing on proposed modifications to the order applied for has been duly made to the Secretary of State and not withdrawn, which in his opinion would if duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;

and references in this paragraph to a person opposing the order shall be construed accordingly.

(3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.

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- (4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.
- 8B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or to works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.”.
- (6) In paragraph 9 (duty of Secretary of State to publish notice of making of order, etc.), after " hours " there is inserted " and further stating, in the case of an order to which paragraph 8B above does not apply, whether the order is affected by the provisions of paragraph 8A above and, where it is not so affected, the date on which it came or will come into operation ".
- (7) After paragraph 9 there is inserted—
- “9A Where an order is affected by the provisions of paragraph 8A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement a notice stating that the order is not so subject and indicating the date on which it came or will come into operation.”.
- (8) The preceding provisions of this paragraph do not apply to a harbour revision or empowerment order in relation to which the notices required by paragraph 3(a) or 7(a) of Schedule 3 have been published before this paragraph comes into force.