SCHEDULES

SCHEDULE 16

ORDERS CREATING, EXTINGUISHING OR DIVERTING FOOTPATHS OR BRIDLEWAYS

The Highways Act 1980

5 (1) In subsection (1) of section 119 of the Highways Act 1980 (diversion of footpaths and bridleways) for the words from the beginning to " or on to land " there shall be substituted the words " Where it appears to a council as respects a footpath or bridleway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or ".

(2) In subsection (5) of that section for the words " the council may require the owner, lessee or occupier on whose representations they are acting " there shall be substituted the words " on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him ".

6 (1) In sub-paragraphs (1)(b) and 2(b) of paragraph 1 of Schedule 6 to that Act (procedure as to certain orders relating to footpaths and bridleways) after the words " free of charge " there shall be inserted the words " and copies thereof may be obtained at a reasonable charge ".

(2) For sub-paragraph (3) of that paragraph there shall be substituted the following sub-paragraph—

"(3) The notices to be given under sub-paragraph (1) or (2) above shall be given—

(a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated;

(b) by serving a like notice on—

(i) every owner, occupier and lessee (except tenants for a month or any period less than a month and statutory tenants within the meaning of the Rent (Agriculture) Act 1976 or the Rent Act 1977) of any of that land;

(ii) every council, the council of every parish or community and the parish meeting of every parish not having a separate parish council, being a council, parish or community whose area includes any of that land ;

(iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3A) or (3B) below; and

(iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority or, as the case may be, the Secretary ot State may consider appropriate; and

(c) by causing a copy of the notice to be displayed in a prominent position—

(i) at the ends of so much of any footpath or bridleway as is created, stopped up or diverted by the order;

(ii) at such other places as the authority or, as which the order relates; and

(iii) at such other places as the authority or, as the case may be, the Secretary of State may consider appropriate."

(3) After that sub-paragraph there shall be inserted the following sub-paragraphs—

"(3A) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such public path creation orders, public path extinguishment orders and public path diversion orders as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area ; and in this sub-paragraph " specified " means specified in the requirement.

(3B) Any person may, on payment of such reasonable charge as the Secretary of State may consider appropriate, require the Secretary of State to give him notice of all such draft public path creation orders, draft public path extinguishment orders and draft public path diversion orders as are prepared by the Secretary of State during a specified period, are of a specified description and relate to land comprised in a specified area ; and in this sub-paragraph " specified " means specified in the requirement.

(3C) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b)(i) above; but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to ' The owners and any occupiers' of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land."

(4) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraphs—

"(4A) Sub-paragraph (3)(&) and (c) and, where applicable, sub-paragraphs (3Q and (4) above shall be complied with not less than 28 days before the expiration of the time specified in the notice.

(4B) A notice required to be served by sub-paragraph (3)(b)(i), (ii) or (iv) above shall be accompanied by a copy of the order.

(4C) A notice required to be displayed by sub-paragraph (3) (c)(i) above at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.

(4D) In sub-paragraph (3)(c)(ii) above ' council offices' means offices or buildings acquired or provided by a council or by the council of a parish or community or the parish meeting of a parish not having a separate parish council."

7 After paragraph 2 of that Schedule there shall be inserted the following paragraph—

"2A (1) A decision of the Secretary of State under paragraph 2 above as respects an order made by an authority other than the Secretary of State shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State ; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.

(2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) above and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.

(3) Where the Secretary of State has appointed a person to make a decision under paragraph 2 above the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.

(4) Where by virtue of sub-paragraph (2) or (3) above a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.

(5) Provision may be made by regulations of the Secretary of State for the giving of publicity to any directions given by the Secretary of State under this paragraph."

8 (1) In paragraph 4 of that Schedule after the words " free of charge " there shall be inserted the words " and copies thereof may be obtained at a reasonable charge " and for heads (a) and (b) there shall be substituted the following heads—

"(a) serve a like notice on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above ; and

(b) cause like notices to be displayed in the like manner as the notices caused to be displayed under paragraph 1(3)(c) above;".

(2) That paragraph as so amended shall be renumbered as paragraph 4(1) of that Schedule and after that provision as so renumbered there shall be inserted the following sub-paragraphs—

"(2) A notice required to be served by sub-paragraph (1)(a) above, on—

(a) a person on whom notice was required to be served by paragraph 1(3)(b)(i) or (ii) above ; or

(b) in the case of an order which has been confirmed or made with modifications, a person on whom notice was required to be served by paragraph 1(3)(b)(iv) above,

shall be accompanied by a copy of the order as confirmed or made.

(3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the authority by whom the order was made shall give

notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 1(3)(b), (3Q or (4) above.”.

9 After that paragraph there shall be inserted the following paragraph—

“4A As soon as may be after an order to which this Schedule applies has come into operation otherwise than—

(a) on the date on which it was confirmed or made by the Secretary of State or confirmed as an unopposed order ; or

(b) at the expiration of a specified period beginning with that date,

the authority by whom the order was made or, in the case of an order made by the Secretary of State, the Secretary of State shall give notice of its coming into operation by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.”