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## SCHEDULES

### SCHEDULE 2

Section 6(3).

#### PROCEDURE IN CONNECTION WITH TOLL ORDERS

##### *Publicity for proposals*

- 1 (1) Where the Secretary of State proposes to make a toll order, he shall prepare a draft of the order and shall publish in at least one local newspaper circulating in the area in which the proposed special road is to be situated, and in the London Gazette, a notice—
- (a) stating the general effect of the proposed order;
  - (b) naming a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.
- (2) Where a toll order is submitted to the Secretary of State by a local highway authority, the authority shall publish in at least one local newspaper circulating in the area in which the proposed special road is to be situated, and in the London Gazette, a notice—
- (a) stating the general effect of the order as submitted to the Secretary of State;
  - (b) naming a place in that area where a copy of the order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the confirmation of the order.
- (3) Where the special road to which the toll order relates is to be subject to a concession, the Secretary of State or the local highway authority shall make available for inspection with the copy of the draft order or of the order, as the case may be, a statement containing such information as may be prescribed with respect to the concessionaire and the concession agreement.
- The notice under sub-paragraph (1) or (2) shall indicate that such a statement will be so available for inspection.
- (4) In sub-paragraph (3) “prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 2 (1) The Secretary of State or the local highway authority, as the case may be, shall serve on every local authority in whose area any part of the route of the proposed special

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road is situated a copy of the notice published under paragraph 1(1) or (2) and of the draft order or of the order, as the case may be.

- (2) The copies must be served not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published.
  - (3) In sub-paragraph (1) “local authority” means a county, district or London borough council or the Common Council of the City of London.
- 3 If it appears to the Secretary of State or, as the case may be, the local highway authority to be desirable to do so, he or they shall take such steps, in addition to those required by paragraphs 1 and 2, as will in his or their opinion secure that additional publicity is given in the area affected by the relevant special road scheme to the proposals contained in the order.
- 4 (1) Before or after the end of the period specified in the notice in pursuance of paragraph 1(1) or (2), the Secretary of State or the local highway authority, as the case may be, may by a further notice published in the same manner substitute a longer period for that specified in the first notice.
  - (2) Paragraph 2 applies with respect to service of a copy of any such further notice as in relation to the first notice.

#### *Making of objections*

- 5 (1) A person who objects to the making or confirmation of a toll order shall include in the notice of objection a statement of the grounds of objection.
- (2) If that is not done, the Secretary of State may disregard the objection.

#### *Local inquiry*

- 6 (1) If an objection is received by the Secretary of State within the period specified for making objections, and is not withdrawn, then—
  - (a) if the objection is from a local authority on whom a copy of the notice is required to be served under paragraph 2, the Secretary of State shall cause a local inquiry to be held;
  - (b) if the objection is from any other person appearing to the Secretary of State to be affected, he shall cause a local inquiry to be held unless he is satisfied that in the circumstances of the case it is unnecessary.
- (2) The period specified for making objections means the period specified in the notice under paragraph 1(1) or (2) or any longer period substituted by a further notice under paragraph 1(3).

#### *Making or confirmation of order*

- 7 (1) The Secretary of State, after considering—
  - (a) any objections which are not withdrawn, and
  - (b) where a local inquiry is held, the report of the person who held the inquiry,
 may make or confirm the order either without modification or subject to such modifications as he thinks fit.
- (2) Where he proposes to make or confirm the order subject to modifications which will in his opinion make a substantial change in the order, he shall—

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- (a) notify any person who appears to him to be likely to be affected by the proposed modifications,
- (b) give that person an opportunity of making representations with respect to the modifications within such reasonable period as he may specify, and
- (c) consider any representations made to him within that period with respect to the proposed modifications.

*Notice of making or confirmation of order*

- 8 As soon as may be after a toll order has been made or confirmed by the Secretary of State, he shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made or confirmed and naming a place where a copy of it may be inspected free of charge at all reasonable hours.

*Special parliamentary procedure where existing highway appropriated or transferred*

- 9 (1) A toll order shall be subject to special parliamentary procedure where—
- (a) the relevant special road scheme provides for the appropriation by or transfer to the special road authority of an existing highway comprised in the route prescribed by the scheme, and
  - (b) the toll order authorises the charging of tolls for the use of that existing highway or any part of it,
- unless the Secretary of State is satisfied as regards all classes of traffic entitled to use the existing highway that another reasonably convenient route free of toll is available, or will be provided before the date on which the appropriation or transfer takes effect, and certifies accordingly.
- (2) Where the Secretary of State proposes to give such a certificate, he shall—
- (a) give public notice of his intention to do so,
  - (b) afford an opportunity to all persons interested to make representations and objections, and
  - (c) cause a public local inquiry to be held if it appears to him to be expedient to do so, having regard to representations or objections made,
- and before deciding whether to give the certificate he shall consider any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry.
- (3) As soon as may be after giving a certificate, the Secretary of State shall publish in the London Gazette, and in such other manner as he thinks best for informing persons affected, a notice stating that the certificate has been given.

*Challenge to validity of order or certificate*

- 10 (1) If a person aggrieved by a toll order desires to question the validity of it, or of any provision contained in it, on the ground—
- (a) that it is not within the powers of this Act, or
  - (b) that any requirement of this Act has not been complied with,
- he may within six weeks after the publication (or first publication) of the notice required by paragraph 8 make an application for the purpose to the High Court.

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- (2) The court may on such an application by interim order suspend the operation of the toll order, or any provision of it, either generally or so far as the interests of the applicant are affected, until the final determination of the proceedings.
- (3) If on an application under this paragraph the court is satisfied—
- (a) that the order, or any provision of it, is not within the powers of this Act, or
  - (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid,
- the court may quash the order or any provision of it.
- (4) If the court quashes the order, the relevant special road scheme shall also cease to have effect.
- (5) Except as provided by this paragraph, the order shall not be questioned in any legal proceedings whatsoever, either before or after it is made or confirmed, and shall become operative on such date as is specified in the order.
- 11 (1) In relation to a toll order which is subject to special parliamentary procedure—
- (a) if the order is confirmed by Act of Parliament under section 6 of the <sup>M1</sup>Statutory Orders (Special Procedure) Act 1945, paragraph 10 above does not apply;
  - (b) in any other case, that paragraph has effect subject to the following modifications—
    - (i) the reference in sub-paragraph (1) to the date on which the notice required by paragraph 8 is published (or first published) shall be construed as a reference to the date on which the order becomes operative under the Act of 1945, and
    - (ii) in sub-paragraph (5) the words “and shall become operative” to the end shall be omitted.
- (2) The provisions of paragraph 10(1) to (3) and (5) above apply in relation to a certificate under paragraph 9 as in relation to a toll order, subject to the following modifications—
- (a) the reference in sub-paragraph (1) to the notice required by paragraph 8 shall be construed as a reference to the notice required by paragraph 9(3), and
  - (b) in sub-paragraph (5) for “made or confirmed” substitute “ given ” and omit the words from “and shall become operative” to the end.

**Marginal Citations**

**M1** 9 & 10 Geo. 6 c. 18.

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