



Transport and Works Act 1992

1992 CHAPTER 42

PART I

ORDERS AUTHORISING WORKS ETC

Power to make orders

5 Subject-matter of orders under sections 1 and 3.

- (1) Without prejudice to the generality of sections 1 and 3 above, the matters as to which provision may be made by an order under either of those sections include those set out in Schedule 1 to this Act.
- (2) An order under section 1 or 3 above may make provision in relation to more than one scheme, system or mode of transport.
- (3) An order under section 1 or 3 above may—
 - (a) apply, modify or exclude any statutory provision which relates to any matter as to which an order could be made under section 1 or, as the case may be, 3, and
 - (b) make such amendments, repeals and revocations of statutory provisions of local application as appear to the Secretary of State to be necessary or expedient in consequence of any provision of the order or otherwise in connection with the order;

and for the purposes of this subsection “statutory provision” means provision of an Act of Parliament or of an instrument made under an Act of Parliament.

- (4) The provisions that may be made by an order under section 1 or 3 above include—
 - (a) any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to—
 - (i) any other provision of the order,
 - (ii) any provision of an earlier order under the section concerned, or

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, Section 5. (See end of Document for details)

- (iii) any provision which is contained in an Act of Parliament passed before the time when this Part of this Act is first wholly in force, or in an instrument made under an Act of Parliament before that time, and which is of a kind which could be included in an order under section 1 or 3 above;
 - (b) such supplemental and transitional provisions as appear to him to be necessary or expedient in connection with the order.
- (5) A provision of an order under section 1 or 3 above relating to offences shall not authorise the imposition on persons convicted of an offence of a term of imprisonment or of a fine exceeding level 3 on the standard scale.
- (6) An order under section 1 or 3 above shall not extinguish any public right of way over land unless the Secretary of State is satisfied—
- (a) that an alternative right of way has been or will be provided, or
 - (b) that the provision of an alternative right of way is not required.
- (7) Where an order under sections 104(3), 105(3) or 112 of the ^{M1}Transport Act 1968 (classification and maintenance of [^{F1}Canal & River Trust's] waterways, and maintenance and use of other waterways) is required so as to give effect to any proposal, no provision shall be included in an order under section 1 or 3 above which would—
- (a) remove that requirement, or
 - (b) alter the requirements of sections 104, 105 or 112 of, or Schedule 13 to, that Act relating to orders under those sections.

Textual Amendments

F1 Words in s. 5(7) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 12(2)** (with arts. 4-6)

Commencement Information

II Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and [S.I. 1992/2784](#), art. 2, **Sch. 1**.

Marginal Citations

M1 1968 c. 73.

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