

SCHEDULES

SCHEDULE 4

POWERS IN RELATION TO, AND FOR, STATUTORY UNDERTAKERS

PART 3

EXTENSION OR MODIFICATION OF FUNCTIONS OF UNDERTAKERS

Ministerial order following representations by statutory undertakers

- 16 (1) The Secretary of State and the appropriate Minister may by order provide for an extension or modification of the functions of particular statutory undertakers if conditions 1 and 2 are met.
- (2) Condition 1 is that the statutory undertakers have made representations on the subject to the Secretary of State and the appropriate Minister.
- (3) Condition 2 is that the Secretary of State and the appropriate Minister consider it appropriate to extend or modify the functions of the statutory undertakers—
- (a) to secure the provision of services which—
- (i) would not otherwise be provided, or
- (ii) would not otherwise be satisfactorily provided,
- in relation to relevant land, or
- (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in sub-paragraph (4).
- (4) The acts and events are—
- (a) the acquisition by the HCA under this Part of this Act of any land—
- (i) in which an interest was held for the purpose of carrying on the undertaking concerned, or
- (ii) which was used for that purpose, and
- (b) the extinguishment of a right, or the imposition of any requirement, by virtue of Part 1 of this Schedule.
- (5) In this Part of this Schedule “relevant land” means land in respect of which any of the functions of the HCA under this Part of this Act are being, or have been, exercised.

Ministerial order following representations by the HCA

- 17 (1) The Secretary of State and the appropriate Minister may by order provide for an extension or modification of the functions of particular statutory undertakers if conditions 1 and 2 are met.
- (2) Condition 1 is that the HCA has made representations on the subject to the Secretary of State and the appropriate Minister.

Status: This is the original version (as it was originally enacted).

- (3) Condition 2 is that the Secretary of State and the appropriate Minister consider it appropriate to extend or modify the functions of the statutory undertakers to secure—
- (a) the provision of new services in relation to relevant land, or
 - (b) the extension of existing services in relation to such land.

Examples of contents of orders

- 18 (1) An order under paragraph 16 or 17 may, in particular—
- (a) give power to statutory undertakers—
 - (i) to acquire (whether compulsorily or by agreement) any land specified in the order, or
 - (ii) to erect or construct any buildings or works specified in the order,
 - (b) apply, in relation to the acquisition of any such land or the erection or construction of any such buildings or works, enactments relating to the acquisition of land or the erection or construction of buildings or works.
- (2) An order under paragraph 16 which is for the purposes mentioned in subparagraph (3)(a) of that paragraph or an order under paragraph 17 may, in particular, give effect to any financial arrangements—
- (a) agreed between the HCA and the statutory undertakers, or
 - (b) in the absence of agreement, decided to be equitable in such manner, and by such tribunal, as may be specified in the order.

Notification of proposal to make order

- 19 (1) Statutory undertakers must, as soon as possible after making representations of the kind mentioned in paragraph 16(2), publish a notice—
- (a) giving such particulars as the Secretary of State and the appropriate Minister may direct of the matters to which the representations relate,
 - (b) specifying the time within which objections to the making of an order as a result of the representations may be made, and
 - (c) specifying the manner in which objections to the making of such an order may be made.
- (2) The notice must be published in such form and manner as the Secretary of State and the appropriate Minister may direct.
- (3) The statutory undertakers must also serve a copy of the notice on such persons, or descriptions of persons, as the Secretary of State and the appropriate Minister may direct if the Secretary of State and the appropriate Minister direct that a copy is to be served.
- 20 (1) The HCA must, as soon as possible after making representations of the kind mentioned in paragraph 17(2), publish a notice—
- (a) giving such particulars as the Secretary of State and the appropriate Minister may direct of the matters to which the representations relate,
 - (b) specifying the time within which objections to the making of an order as a result of the representations may be made, and
 - (c) specifying the manner in which objections to the making of such an order may be made.

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- (2) The notice must be published in such form and manner as the Secretary of State and the appropriate Minister may direct.
- (3) The HCA must also serve a copy of the notice on such persons, or descriptions of persons, as the Secretary of State and the appropriate Minister may direct if the Secretary of State and the appropriate Minister direct that a copy is to be served.

Duty to consider objections

- 21 (1) The Secretary of State and the appropriate Minister must proceed under paragraph 22 if—
- (a) an objection to the making of an order under paragraph 16 or 17 is properly made and not withdrawn, and
 - (b) the matter is not otherwise dealt with.
- (2) For the purposes of sub-paragraph (1) an objection is properly made if (and only if)—
- (a) it is made—
 - (i) within the time, and
 - (ii) in the manner,stated in the notice under paragraph 19(1) or (as the case may be) 20(1), and
 - (b) a written statement of the grounds of the objection is comprised in, or submitted with, the objection.
- (3) For the purposes of sub-paragraph (1) the matter is otherwise dealt with if (and only if) the Secretary of State and the appropriate Minister—
- (a) decide, irrespective of the objection, not to make the order, or
 - (b) decide to make a modification which is agreed to by the objector as meeting the objection.
- 22 (1) The Secretary of State and the appropriate Minister must, before making a final decision, consider the grounds of the objection as set out in the statement comprised in, or submitted with, the objection.
- (2) The Secretary of State and the appropriate Minister may require the objector to submit within a specified period a further written statement as to any of the matters to which the objection relates.

Duty to give opportunity to appear

- 23 (1) The Secretary of State and the appropriate Minister must, before making a final decision, give the objector an opportunity to appear before, and be heard by, a person appointed for the purpose by the Secretary of State and the appropriate Minister.
- (2) The Secretary of State and the appropriate Minister must give an opportunity of appearing and being heard on the same occasion to—
- (a) the statutory undertakers or (as the case may be) the HCA as a result of whose representations the order is proposed to be made, and
 - (b) any other persons whom the Secretary of State and the appropriate Minister consider ought to be given the opportunity,
- if the objector takes advantage of the opportunity mentioned in sub-paragraph (1).

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- (3) Sub-paragraphs (1) and (2) do not apply so far as the Secretary of State and the appropriate Minister have the power to proceed under paragraph 24 or 25.

Power to treat objection as irrelevant

- 24 The Secretary of State and the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision—
- (a) if the Secretary of State and the appropriate Minister have considered the grounds of the objection as set out in the original statement and in any further statement, and
 - (b) so far as the Secretary of State and the appropriate Minister are satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation.

Power to curtail decision-making process

- 25 The Secretary of State and the appropriate Minister may make a final decision without further investigation as to the matters to which the objection relates if—
- (a) the Secretary of State and the appropriate Minister—
 - (i) have considered the grounds of the objection as set out in the original statement and in any further statement, and
 - (ii) are satisfied that, for the purpose of making a final decision, sufficient information is available as to the matters to which the objection relates, or
 - (b) a further statement has been required under paragraph 22(2) but is not submitted within the specified period.

Power to hold public local inquiry

- 26 (1) The Secretary of State and the appropriate Minister must cause a public local inquiry to be held in relation to an objection under this Part of this Schedule if the Secretary of State and the appropriate Minister consider that the matters to which the objection relates are such as to require investigation by such an inquiry before the Secretary of State and the appropriate Minister make a final decision.
- (2) The duty in sub-paragraph (1) is effective despite any other provisions of this Part of this Schedule.
- (3) The other provisions of this Part of this Schedule are to be ignored if, when the Secretary of State and the appropriate Minister decide to cause an inquiry to be held, effect has not been given to them.

Special parliamentary procedure for orders

- 27 Orders under paragraph 16 or 17 are subject to special parliamentary procedure.