

SCHEDULE 1

Regulation 22(3)

PROCEDURE IN CONNECTION WITH ORDERS UNDER REGULATION 22

Coming into operation

- 1.—(1) An original order or a restrictive amending order takes effect on its being made.
- (2) The Secretary of State shall consider every such order, and the order shall cease to have effect nine months after it is made unless he has previously given notice under paragraph 6 that he has considered it and does not propose to amend or revoke it, or has revoked it.
- (3) Subject to paragraphs 3(1) and 4(4), a revoking order, or an amending order which is not restrictive, does not take effect until confirmed by the Secretary of State.
- (4) An amending or revoking order requiring confirmation shall stand revoked if the Secretary of State gives notice under paragraph 6 below that it is not to be confirmed.

Publicity for orders

- 2.—(1) The Secretary of State shall, where an order has been made, give notice setting out the order (or describing its general effect) and stating that it has taken effect or, as the case may be, that it has been made and requires confirmation.
- (2) The notice shall—
 - (a) name a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
 - (b) specify the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (3) The notice shall be given—
 - (a) by publication in the Gazette and also 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—
 - (i) on every owner and occupier of that land (subject to sub-paragraph (4) below); and
 - (ii) on the local planning authority within whose area the land is situated.
- (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b)(i); 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.

Unopposed orders

- 3.—(1) Where an order has taken effect immediately and no representations or objections are duly made in respect of it or any so made are withdrawn, the Secretary of State shall, as soon as practicable after considering the order, decide either to take no action on it or to make an order amending or revoking it.

An amending or revoking order under this sub-paragraph takes effect immediately and does not require confirmation nor shall any representation or objection with respect to it be entertained.

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

(2) Where an order requiring confirmation is made and no representations or objections are duly made in respect of it, or any so made are withdrawn, the Secretary of State may confirm the order (with or without modification).

Opposed orders

4.—(1) If any representation or objection duly made with respect to an order is not withdrawn, then, as soon as practicable in the case of an order having immediate effect and before confirming an order requiring confirmation, the Secretary of State shall either—

- (a) cause a local inquiry to be held; or
- (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.

(2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the Secretary of State—

- (a) if the order has already taken effect, shall decide either to take no action on the order, or to make an order amending or revoking it as he thinks appropriate in the light of the report, representations or objections; and
- (b) if the order requires confirmation, may confirm it (with or without modifications).

(3) The provisions of section 250(2) to (5) of the Local Government Act 1972⁽¹⁾ or section 210(4) to (8) of the Local Government (Scotland) Act 1973⁽²⁾ (local inquiries: evidence and costs) apply in relation to an inquiry held under this paragraph.

(4) An amending or revoking order made by virtue of sub-paragraph (2) above takes effect immediately and does not require confirmation nor shall any representation or objection with respect to it be entertained.

Restriction on power to amend orders or confirm them with modifications

5. The Secretary of State shall not by virtue of paragraphs 3(1) or 4(2) amend an order which has taken effect, or confirm any other order with modifications, so as to extend the area to which the order applies.

Notice of final decision on order

6.—(1) The Secretary of State shall as soon as practicable after making an order by virtue of paragraphs 3(1) or 4(2) give notice—

- (a) setting out the order (or describing its effect) and stating that it has taken effect; and
- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.

(2) The Secretary of State shall give notice of any of the following decisions of his as soon as practicable after making the decision—

- (a) a decision under paragraph 3(1) or 4(2) to take no action on an order which has already taken effect;
- (b) a decision to confirm or not to confirm an order requiring confirmation under this Schedule.

(1) 1972 c. 70.

(2) 1973 c. 65.

- (3) A notice under this paragraph of a decision to confirm an order shall—
 - (a) set out the order as confirmed (or describe its general effect) and state the day on which the order took effect; and
 - (b) name a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours.
- (4) Notice under this paragraph shall be given by publishing it in accordance with paragraph 2(3) and serving a copy of it on any person on whom a notice was required to be served under paragraph 2(3) or (4).

Proceedings for questioning validity of orders

7.—(1) This paragraph applies to any order which has taken effect and as to which the Secretary of State has given notice under paragraph 6 of a decision of his to take no action or to amend the order in accordance with paragraph 4; and in this paragraph “the relevant notice” means that notice.

(2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the ground that it is not within the powers of regulation 22, or that any of the requirements of this Schedule have not been complied with in relation to it, he may within six weeks from the date of the relevant notice make an application to the court under this paragraph.

(3) On any such application the court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements—

- (a) in England and Wales, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant; or
- (b) in Scotland, make such declarator as seems to the court to be appropriate.

(4) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.

(5) In this paragraph “the court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.

Interpretation

8. In this Schedule—

“amending order” and “revoking order” mean an order which amends or, as the case may be, revokes a previous order;

“the Gazette” means—

- (a) if the order relates in whole or in part to land in England and Wales, the London Gazette; and
- (b) if the order relates in whole or in part to land in Scotland, the Edinburgh Gazette;

“order” means an order under regulation 22;

“original order” means an order other than an amending or revoking order; and

“restrictive amending order” means an amending order which extends the area to which a previous order applies.

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

SCHEDULE 2

Regulation 38

EUROPEAN PROTECTED SPECIES OF ANIMALS

<i>Common name</i>	<i>Scientific name</i>
Bats, Horseshoe (all species)	Rhinolophidae
Bats, Typical (all species)	Vespertilionidae
Butterfly, Large Blue	Maculinea arion
Cat, Wild	Felis silvestris
Dolphins, porpoises and whales (all species)	Cetacea
Dormouse	Muscardinus avellanarius
Lizard, Sand	Lacerta agilis
Newt, Great Crested (or Warty)	Triturus cristatus
Otter, Common	Lutra lutra
Snake, Smooth	Coronella austriaca
Sturgeon	Acipenser sturio
Toad, Natterjack	Bufo calamita
Turtles, Marine	Caretta caretta
	Chelonia mydas
	Lepidochelys kempii
	Eretmochelys imbricata
	Dermochelys coriacea

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

SCHEDULE 3

Regulation 41(1)(a)

ANIMALS WHICH MAY NOT BE TAKEN OR KILLED IN CERTAIN WAYS

<i>Common name</i>	<i>Scientific name</i>
Barbel	Barbus barbus
Grayling	Thymallus thymallus
Hare, Mountain	Lepus timidus
Lamprey, River	Lampetra fluviatilis
Marten, Pine	Martes martes

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

<i>Common name</i>	<i>Scientific name</i>
Polecat	Mustela putorius (otherwise known as Putorius putorius)
Salmon, Atlantic	Salmo salar (only in fresh water)
Seal, Bearded	Erignathus barbatus
Seal, Common	Phoca vitulina
Seal, Grey	Halichoerus grypus
Seal, Harp	Phoca groenlandica (otherwise known as Pagophilus groenlandicus)
Seal, Hooded	Cystophora cristata
Seal, Ringed	Phoca hispida (otherwise known as Pusa hispida)
Shad, Allis	Alosa alosa
Shad, Twaite	Alosa fallax
Vendace	Coregonus albula
Whitefish	Coregonus lavaretus

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

SCHEDULE 4

Regulation 42

EUROPEAN PROTECTED SPECIES OF PLANTS

<i>Common name</i>	<i>Scientific name</i>
Dock, Shore	Rumex rupestris
Fern, Killarney	Trichomanes speciosum
Gentian, Early	Gentianella anglica
Lady's-slipper	Cypripedium calceolus
Marshwort, Creeping	Apium repens
Naiad, slender	Najas flexilis
Orchid, Fen	Liparis loeselii
Plantain, Floating-leaved water	Luronium natans
Saxifrage, Yellow Marsh	Saxifraga hirculus

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