

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Power to make orders

This version in force from: **March 1, 2010** to **present**

(version 2 of 2)

1.— Orders as to railways tramways etc.

(1) The Secretary of State may make an order relating to, or to matters ancillary to, the construction or operation of a transport system of any of the following kinds, so far as it is in England and Wales—

(a) a railway;

(b) a tramway;

(c) a trolley vehicle system;

(d) a system using a mode of guided transport prescribed by order made under section 2 below.

[

(1A) Subsection (1) is subject to—

(a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);

(b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).

]

[1](#)

(2) The power to make orders under this section shall be exercisable by statutory instrument.

Notes

[1](#). Added by Planning Act 2008 c. 29 Sch.2 para.52 (March 1, 2010)

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1
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	para. 1
	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1

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Subject: Transport

Keywords: Transport and works orders; Transport policy

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Power to make orders

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

2.— Extension of section 1 to other guided transport systems.

(1) The Secretary of State may by order prescribe modes of guided transport for the purposes of section 1(1)(d) above.

(2) The power to make orders under this section shall be exercisable by statutory instrument; but no order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

Modifications

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Pt I s. 2	Modified by Greater Manchester (Light Rapid Transit System) (Trafford Park) Order 2001/1367, Pt II art. 5

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Power to make orders

This version in force from: **March 1, 2010** to **present**

(version 2 of 2)

3.— Orders as to inland waterways etc.

- (1) The Secretary of State may make an order relating to, or to matters ancillary to—
- (a) the construction or operation of an inland waterway in England and Wales;
 - (b) the carrying out of works which—
 - (i) interfere with rights of navigation in waters within or adjacent to England and Wales, up to the seaward limits of the territorial sea, and
 - (ii) are of a description prescribed by order made under section 4 below.

[

(1A) Subsection (1) is subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).

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[1](#)

(2) The Secretary of State shall not make an order under this section if in his opinion the primary object of the order could be achieved by means of an order under the Harbours Act 1964.

(3) The power to make orders under this section shall be exercisable by statutory instrument.

Notes

[1](#). Added by Planning Act 2008 c. 29 Sch.2 para.53 (March 1, 2010)

Modifications

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	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1
Pt I s. 3	Modified in relation to special forces drivers using vehicles in response to a national security emergency or whilst being trained or practising to do so by Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011/935, reg. 2(2)(b)

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Subject: Transport

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Power to make orders

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

4.— Description of works for purposes of section 3.

(1) The Secretary of State may by order prescribe descriptions of works for the purposes of section 3(1)(b) above.

(2) The power to make orders under this section shall be exercisable by statutory instrument; but no order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

Modifications

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Subject: Transport

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Power to make orders

This version in force from: **July 2, 2012** to **present**

(version 2 of 2)

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

(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 Transport Act 1968 (classification and maintenance of [Canal & River Trust's]

¹

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.

Notes

- ¹. Words substituted by British Waterways Board (Transfer of Functions) Order 2012/1659 Sch.3(1) para.12(2) (July 2, 2012 subject to transitional provisions and savings specified in SI 2012/1659 arts 5 and 6)

Modifications

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **April 1, 2013** to **present**

(version 7 of 7)

6.— Applications for orders under sections 1 and 3.

(1) Subject to section 7 below, the Secretary of State shall not make an order under section 1 or 3 above except on an application made to him in accordance with rules made under this section.

(2) The Secretary of State may make rules as to—

(a) the form of an application under this section;

(b) the documents and information that must be submitted with it;

(c) the giving and publication of notices of an application;

(d) any other steps that must be taken before an application is made or in connection with the making of an application.

[

(2A) The power to make rules by virtue of subsection (2) above includes power to make provision for or in connection with requiring the Secretary of State in such cases or circumstances as may be prescribed in the rules to give to a person who proposes to make an application under this section an opinion on the information, if any, to be supplied in connection with that application.

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[

(2B) The power to make rules by virtue of subsection (2) above includes a power to make rules as to the publicity to be given to any environmental information provided in relation to an application made under this section.

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[2](#)

(3) Any provision made by rules as to the consultation that must be carried out before an application is made [, or as to the provision of information by a relevant authority to a person for the purposes of an application which the person proposes to make,]

[3](#)

may include provision requiring compliance with general or special directions given by the

Secretary of State.

(4) Rules under this section may make different provision for different cases, and may include provision authorising the Secretary of State—

(a) to dispense with compliance with rules that would otherwise apply, or

(b) to require compliance with rules that would not otherwise apply,

in any case where he considers it appropriate to do so.

(5) Rules may provide for fees of such amounts as may be determined by or in accordance with the rules to be payable to the Secretary of State on the making of applications under this section.

(6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[

(7) In subsection (3) above "*relevant authority*" means any authority in relation to which Article 5(4) of Council Directive 85/337/EEC, as amended by Council Directive 97/11/EC, (authorities holding relevant information to make it available to the developer) applies, and includes—

(a) [Natural England]

[5](#)

;

(b) [the Natural Resources Body for Wales]

[6](#)

;

(c) a local planning authority, within the meaning of Part I of the Town and Country Planning Act 1990

[7](#)

; [and]

[8](#)

(d) the Minister of Agriculture, Fisheries and Food [.]

[8](#)

[...]

[8](#)

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[4](#)

Notes

1. Added by Transport and Works (Assessment of Environmental Effects) Regulations 1998/2226 reg.2(a) (October 7, 1998)
2. Added by Transport and Works (Assessment of Environmental Effects) Regulations 2006/958 reg.2(1) (April 20, 2006)
3. Words inserted by Transport and Works (Assessment of Environmental Effects) Regulations 1998/2226 reg.2(b) (October 7, 1998)
4. Added by Transport and Works (Assessment of Environmental Effects) Regulations 1998/2226 reg.2(c) (October 7, 1998)
5. Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 Sch.11(1) para.136(a) (October 1, 2006)
6. Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.340 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)
7. Part I was amended by the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), section 187(1) and Schedule 21, paragraph 29, the Local Government (Wales) Act 1994 (c. 19), sections 18 and 19, and the Environment Act 1995 (c. 25), sections 67 and 78 and Schedule 10, paragraph 32(2) and (3).
8. Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Modifications

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Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **January 1, 2001 to present**

(version 2 of 2)

[

6A.— Cases where other Member States are affected

(1) The power conferred on the Secretary of State by subsection (2) of section 6 above to make rules includes power to make rules for a case where an application has been made under that section and another Member State is affected by the project in question, as to—

(a) the provision by the Secretary of State to the Member State, or to authorities in, or the public of, the Member State, of documents and information relating to the application;

(b) consultation by the Secretary of State with the Member State in connection with the application; or

(c) notification by the Secretary of State to the Member State of the decision, or of matters relating to the decision, on the application.

(2) For the purposes of subsection (1) above, the cases where another Member State is affected by the project in question are those cases where—

(a) it appears to the Secretary of State that the project would be likely to have significant effects on the environment in another Member State; or

(b) that other Member State is likely to be significantly affected by the project and requests information relating to the application.

[

(3) "*Member State*" includes a state which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.

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[2](#)

]

[1](#)

1. Added by Transport and Works (Assessment of Environmental Effects) Regulations 1998/2226 reg.3 (October 7, 1998)
2. Added by Transport and Works (Assessment of Environmental Effects) Regulations 2000/3199 reg.2 (January 1, 2001)

Modifications

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Subject: Transport

Keywords: Member States; Ministers' powers and duties

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **April 20, 2006 to present**

(version 2 of 2)

7.— Orders under sections 1 and 3 made otherwise than on application.

(1) The Secretary of State may without any application being made to him make—

(a) an order under section 1 above which relates to, or to matters ancillary to, the construction for naval, military, air force or other defence purposes of a railway, tramway or other system within section 1(1), or the operation of a railway, tramway or other system constructed for those purposes;

(b) an order under section 1 or 3 above making any provision which appears to the Secretary of State to be necessary or expedient, in the interests of safety,—

(i) for the purpose of suspending or discounting any operations, or

(ii) in consequence of the abandonment or neglect of any works;

(c) an order under section 1 or 3 above repealing or revoking provisions which appear to the Secretary of State to be spent.

(2) An order made by virtue of subsection (1)(b) above may include provision for the recovery by the Secretary of State of the costs of making the order and of carrying its provisions into effect.

(3) Where the Secretary of State proposes to make an order by virtue of this section, he shall—

(a) prepare a draft of the order,

[

(b) publish a notice of his intention to make the order, which notice shall include such particulars as may be prescribed, in the London Gazette and in a local newspaper circulating in the area (or each of the areas) in which the proposals contained in the draft order are intended to have effect, and

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[1](#)

(c) give such further notices of the proposal as may be prescribed.

(4) The power to make provision by rules under section 6 above in relation to applications shall include power to make such corresponding provision as the Secretary of State considers appropriate in relation to proposals to make orders by virtue of this section; and in subsection (3) above "*prescribed*" means prescribed by rules under section 6.

Notes

1. Substituted by Transport and Works (Assessment of Environmental Effects) Regulations 2006/958 reg.2(2) (April 20, 2006)

Modifications

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Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

8.— Model clauses.

(1) The Secretary of State may by order prescribe model provisions for incorporation in any draft orders which, in accordance with rules made under section 6 above, may be required to be submitted with applications under that section.

(2) Different provisions may be prescribed under this section for different cases.

(3) The prescribing under this section of a model provision shall not of itself make it mandatory for a provision in the terms of the model to be incorporated in a draft order or in any order eventually made by the Secretary of State under section 1 or 3 above.

(4) The power to make orders under this section shall be exercisable by statutory instrument.

Modifications

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Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

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(version 2 of 2)

9.— Schemes of national significance.

(1) This section applies where an application made under section 6 above relates (wholly or in part) to proposals which in the opinion of the Secretary of State are of national significance.

(2) Before the end of the period of 56 days beginning with the day on which he receives the application, the Secretary of State shall publish in the London Gazette a notice identifying the application and the proposals which in his opinion are of national significance.

(3) On, or as soon as practicable after, the day on which the notice required by subsection (2) above is published, the Secretary of State shall—

[

(a) publish a like notice in a local newspaper circulating in the area (or each of the areas) in which the proposals contained in the application are intended to have effect, and

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(b) send a copy of the notice to the applicant and to every person within section 11(4) below who objected to the application in accordance with rules made under section 10 below.

(4) The Secretary of State shall not make an order on the application unless each House of Parliament, on a motion moved by a Minister of the Crown which identifies the proposals referred to above, passes a resolution approving them at some time later than 56 days after the day of publication of the notice required by subsection (2) above.

(5) An order made on the application shall not include any provision that is inconsistent with a proposal approved by a resolution in accordance with this section unless that provision gives effect to modifications of the proposal which have themselves been approved by a resolution of each House of Parliament passed on a motion moved by a Minister of the Crown.

(6) This section shall apply in relation to an order which the Secretary of State makes or proposes to make by virtue of section 7 above as it applies in relation to an order for which an application is made to him, except that in such a case—

(a) subsections (2) and (3) above shall not apply, and

(b) subsection (4) above shall apply as if the reference to the notice required by subsection (2) above were a reference to the notice required by section 7(3) above to be published in the London Gazette;

and any proposals which in the opinion of the Secretary of State are of national significance shall be identified as such in any notice required by or under section 7(3) above.

Notes

- ^{1.} Substituted by Transport and Works (Assessment of Environmental Effects) Regulations 2006/958 reg.2(3) (April 20, 2006)

Modifications

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Pt I s. 9	Modified by Channel Tunnel Rail Link Act 1996 c. 61, Pt I s. 42(1)

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Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

10.— Objections.

(1) The Secretary of State may make rules as to—

(a) the making of objections to an application under section 6 above or to a proposal to make an order by virtue of section 7 above;

(b) the information to be comprised within or submitted with an objection;

(c) the submission by the person making the application of written representations or information in relation to objections;

(d) the submission of further written representations or information;

(e) such other matters relating to the consideration of objections as appear to the Secretary of State to be appropriate.

(2) Subject to the following provisions of this section, the Secretary of State shall not make a determination under section 13(1) below to make an order without first taking into consideration the grounds of any objection in respect of which rules under this section have been complied with.

(3) If an objection is withdrawn or appears to the Secretary of State—

(a) to be frivolous or trivial, or

(b) to relate to matters which fall to be determined by a tribunal concerned with the assessment of compensation,

he may make a determination under section 13(1) below without further consideration of the objection.

(4) Subsection (2) above shall not apply where the Secretary of State causes an inquiry to be held under section 11(1) below or causes an objection to be dealt with in accordance with section 11(2) below, but the Secretary of State shall not make a determination under section 13(1) below without first taking into consideration the report of the person holding the inquiry, or as the case may be of the person appointed under section 11(2).

(5) Rules under this section may make different provision for different cases, and may

include provision authorising the Secretary of State—

(a) to dispense with compliance with rules that would otherwise apply, or

(b) to require compliance with rules that would not otherwise apply,

in any case where he considers it appropriate to do so.

(6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **April 1, 1996 to present**

(version 2 of 2)

11.— Inquiries and hearings.

(1) The Secretary of State may cause a public local inquiry to be held for the purposes of an application under section 6 above or a proposal by the Secretary of State to make an order by virtue of section 7 above.

(2) The Secretary of State may give to a person who makes an objection in accordance with rules under section 10 above an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Where an objection is made by a person within subsection (4) below who informs the Secretary of State in writing that he wishes the objection to be referred to an inquiry or dealt with in accordance with subsection (2) above, then, unless section 10(3) above applies, the Secretary of State shall either cause an inquiry to be held or, if he so determines, cause the objection to be dealt with in accordance with subsection (2).

(4) The persons within this subsection are—

(a) any local authority for an area in which any works authorised by the proposed order are to be carried out, and

(b) where the proposals include the compulsory acquisition of land, any person who, if Part II of the Acquisition of Land Act 1981 (notice to owners, lessees and occupiers) applied to the acquisition, would be entitled to a notice under section 12 of that Act;

and for the purposes of paragraph (a) above "*local authority*" means a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly [, a county borough council,]

¹

and a Passenger Transport Executive.

(5) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (attendance and evidence at, and costs of, inquiries) shall apply to an inquiry held under subsection (1) above; but—

(a) in its application by virtue of this subsection, section 250(4) shall have effect with the omission of the words "and any amount" onwards, and

(b) the power to make an order as to costs under section 250(5) as applied by this subsection shall be exercisable not only where the inquiry takes place but also where arrangements are made for it but it does not take place.

(6) Subsections (4) and (5) of section 250 of the Local Government Act 1972 (costs) shall apply in relation to proceedings under subsection (2) above as they apply in relation to an inquiry under subsection (1) above.

Notes

1. Words inserted by Local Government (Wales) Act 1994 c. 19 Sch.7(I) para.34(1) (April 1, 1996)

Modifications

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	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1
Pt I s. 11(4)	Modified by National Park Authorities (England) Order 1996/1243, Sch. 5(II) para. 7, art. 18
	Modified by Transport and Works Applications (Inland Waterways Procedure) Regulations 1993/1119, Sch. 2 para. 2

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Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **June 25, 2013** to **present**

(version 2 of 2)

12.— Special parliamentary procedure.

(1) An order under section 1 or 3 above authorising a compulsory purchase shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 (or by virtue of paragraph 5 or 6 of Schedule 3 to that Act) (National Trust land, commons etc), if the purchase were authorised by an order under section 2(1) of that Act.

(2) In section 3 of the Statutory Orders (Special Procedure) Act 1945 (petitions against orders subject to special parliamentary procedure) after subsection (4) there shall be inserted—

“

(4A) The Chairman shall not certify that a petition is proper to be received if the order to which it relates is made under section 1 or 3 of the Transport and Works Act 1992 and either—

(a) the petition is a petition of general objection and the order relates to proposals which have been approved by each House of Parliament in accordance with section 9 of that Act, or

(b) the petition is a petition for amendment and any of the amendments asked for would in the opinion of the Chairmen be inconsistent with such proposals.

”

(3) In relation to an order under section 1 or 3 above which is subject to special parliamentary procedure—

(a) section 13(5) below shall not apply,

(b) section 22 below shall not apply if the order is confirmed by Act of Parliament under [section 4 or 6]

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of the Statutory Orders (Special Procedure) Act 1945, and

(c) in any other case, section 22(1) below shall have effect as if for the reference to the day on which the notice required by section 14(1)(b) is published there were substituted a reference to the day on which the order comes into operation under the Statutory Orders (Special Procedure) Act 1945.

Notes

1. Words inserted by Growth and Infrastructure Act 2013 c. 27 s.25(9) (June 25, 2013: insertion has effect subject to transitional and saving provisions specified in SI 2013/1488 art.8(3))

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1

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Subject: Transport

Keywords: Compulsory purchase orders; Parliamentary procedure

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

13.— Making or refusal of orders under section 1 or 3.

(1) Where an application has been made to the Secretary of State under section 6 above, or he proposes to make an order by virtue of section 7 above, and (in either case) the requirements of the preceding provisions of this Act in relation to any objections have been satisfied, he shall determine—

(a) to make an order under section 1 or 3 above which gives effect to the proposals concerned without modifications, or

(b) to make an order which gives effect to those proposals with modifications, or

(c) not to make an order.

(2) Where an application has been made to the Secretary of State under section 6 above and he considers that any of the objects of the order applied for could be achieved by other means, he may on that ground determine not to make the order (but this subsection is without prejudice to subsection (3) below).

(3) The power of the Secretary of State to make a determination under subsection (1) above includes power to make a determination in respect of some only of the proposals concerned, while making a separate determination in respect of, or deferring consideration of, others (and accordingly the power to make an order under section 1 or 3 above includes power to make two or more orders on the same application).

(4) Where the Secretary of State proposes to make an order which gives effect to the proposals concerned with modifications which will in his opinion make a substantial change in the proposals—

(a) he shall notify any person who appears to him to be likely to be affected by the modifications,

(b) he shall give that person an opportunity of making representations to him about the modifications within such period as he may specify in the notice, and

(c) he shall before making the order consider any representations duly made to him.

(5) An order under section 1 or 3 above shall come into operation on the date on which the notice required by subsection (1)(b) of section 14 below is first published, or on such later date, if any, as may be specified in the order.

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1
Pt I s. 13(5)	Modified in relation to an order under 1992 c.42 s.1 or 3 which is subject to special parliamentary procedure by Transport and Works Act 1992 c. 42, Pt I s. 12(3)(c)

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Subject: Transport

Keywords: Decisions; Ministers' powers and duties; Notice; Transport and works orders

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Procedure for making orders

This version in force from: **April 20, 2006 to present**

(version 5 of 5)

14.— Publicity for making or refusal of orders.

(1) As soon as practicable after making a determination under section 13(1) above, the Secretary of State shall—

(a) give notice of the determination to the person (if any) who applied for the order and to every person who made an objection which was referred to an inquiry or hearing in accordance with section 11(3) above, and

(b) publish a notice of the determination in the London Gazette.

[

(2) A notice under subsection (1)(a) above shall give—

(a) the reasons for the determination and the considerations upon which it is based;

(b) information about the public participation process; and

(c) information regarding the right to challenge the validity of the determination and the procedures for doing so.

(2A) A notice under subsection (1)(b) above shall state—

(a) the terms of the determination;

(b) that the notice under subsection (1)(a) above gives the information referred to in subsection (2)(a) to (c) above; and

(c) where copies of the notice under subsection (1)(a) above may be obtained.

]

[1](#)

(3) A notice under subsection (1) above of a determination to make an order shall give such particulars of the terms of the order as the Secretary of State considers appropriate, and in particular shall (except where the order is made by virtue of section 7 above) state the name and address of the person who applied for the order.

[

(3A) Where a determination under section 13(1) above relates to an application or proposal to which this subsection applies, the notices under subsection (1) above shall state that, before the Secretary of State made the determination—

(a) he considered the environmental statement, and

(b) he complied with any obligations under section 10 above in respect of any objection made in accordance with rules under that section which relates to the environmental statement, and

(c) he considered, or referred to an inquiry under section 11(1) above or a person appointed under section 11(2), any representation duly made to him (other than an objection) which relates to the environmental statement.

[

(3AA) If, in a case where subsection (3A) has effect, an order is to be made, the notices under subsection (1) shall also contain a description of the main measures to avoid, reduce and, if possible, remedy the major adverse environmental effects.

]
³

(3B) Subsection (3A) above applies to any application under section 6 above for an order, and any proposal to make an order by virtue of section 7 above, where the order would authorise—

(a) works or other projects in a class listed in Annex I to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, [as amended by Council Directive 97/11/EC,]

⁴

or

(b) works or other projects in a class listed in Annex II to that Directive which are, by virtue of their nature, size or location, likely to have significant effects on the environment [as amended by Council Directive 97/11/EC]

⁴

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(3C) The Secretary of State shall send a copy of any notice to which subsection (3A) above applies to any person who made—

(a) an objection to which paragraph (b) of that subsection refers, which was not referred to an inquiry or hearing in accordance with section 11(3) above, or

(b) a representation to which subsection (3A) (c) above refers.

(3D) For the purposes of subsection (3A) above, “*environmental statement*” means a statement—

(a) which is required by virtue of rules made under section 6 above—

(i) to accompany an application under that section for an order; or

(ii) to be prepared in connection with the publication of a notice of a proposal to make an order by virtue of section 7 above, and

(b) which sets out particulars of the likely impact on the environment of the implementation of the order applied for or proposed.

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[

(4) Where the Secretary of State makes a determination under section 13(1) above, the appropriate person shall publish a notice in a local newspaper circulating in the area, or in each of the areas, in which the relevant proposals are or were intended to have effect; and such notice shall state the information referred to in subsection (2A) (a) to (c) above.

(4A) In subsection (4)—

(a) in relation to an application for an order under section 1 or 3 above—

(i) “*appropriate person*” means the person who applied for the order;

(ii) “*relevant proposals*” means the proposals contained in the application;

(b) in relation to a proposal to make an order by virtue of section 7 above—

(i) “*appropriate person*” means the Secretary of State;

(ii) “*relevant proposals*” means the proposals contained in the draft order prepared by the Secretary of State pursuant to section 7.

]
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(5) As soon as practicable after the making of an order under section 1 or 3 above, the person who applied for the order (or, where the order is made by virtue of section 7 above, the Secretary of State) shall—

(a) deposit in the office of the Clerk of the Parliaments a copy of the order, and of any plan or book of reference prepared in connection with the application (or proposed order), and

(b) deposit with each of the councils mentioned in subsection (7) below in whose area works authorised by the order are to be carried out a copy of each of those documents, or of so much of them as is relevant to those works.

(6) Where a plan or book of reference is revised before the order is made, the reference in

subsection (5)(a) above is to the latest version.

(7) The councils referred to in subsection (5) above are district councils, London borough councils and the Common Council of the City of London [but are, in relation to Wales, county councils and county borough councils]

[6](#)

.

(8) A council with which documents are deposited in accordance with subsection (5) above shall make them available for inspection free of charge at all reasonable hours.

Notes

- [1](#). S.14(2) and (2A) substituted for s.14(2) by Transport and Works (Assessment of Environmental Effects) Regulations 2006/958 reg.2(4) (April 20, 2006)
- [2](#). Added by Transport and Works (Assessment of Environmental Effects) Regulations 1995/1541 reg.2 (August 1, 1995)
- [3](#). Added by Transport and Works (Assessment of Environmental Effects) Regulations 1998/2226 reg.4(a) (October 7, 1998)
- [4](#). Words inserted by Transport and Works (Assessment of Environmental Effects) Regulations 1998/2226 reg.4(b) (October 7, 1998)
- [5](#). S.14(4) and (4A) substituted for s.14(4) by Transport and Works (Assessment of Environmental Effects) Regulations 2006/958 reg.2(5) (April 20, 2006)
- [6](#). Words inserted by Local Government (Wales) Act 1994 c. 19 Sch.7(l) para.34(2) (April 1, 1996)

Modifications

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Subject: Transport

Keywords: Decisions; Notice; Publication; Transport and works orders

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

15.— Assimilation of procedures.

(1) This section applies to applications made under section 6 above relating to proposals for the purposes of which the giving of a consent, permission or licence under any enactment, or the making or confirmation of an order under any enactment, is required.

(2) The Secretary of State may make regulations for securing that, where the requirement referred to in subsection (1) above would not be removed by the order to which the application relates—

(a) the procedure for obtaining, or otherwise relating to, the consent, permission, licence, order or confirmation, and

(b) the procedure relating to the application made under section 6 above,

are wholly or partly assimilated (and in particular that proceedings relating to the one may be held concurrently with proceedings relating to the other).

(3) Regulations under this section may include provision—

(a) excluding or modifying the application of any enactment;

(b) authorising the Secretary of State to give directions or take such other steps as may be appropriate for the purpose of securing the object mentioned in subsection (2) above.

(4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) This section shall apply to proposals by the Secretary of State to make orders by virtue of section 7 above as it applies to applications under section 6 above.

Modifications

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	para. 1
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Subject: Transport

Keywords: Procedure; Regulations; Variation

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **January 1, 1993** to **present**

(version 1 of 1)

16.— Town and country planning.

(1) In section 90 of the Town and Country Planning Act 1990 (which gives power to deem planning permission to be granted in certain cases where development is authorised by a government department) after subsection (2) there shall be inserted—

“

(2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

”

(2) In Schedule 13 to the Town and Country Planning Act 1990 (blighted land) after paragraph 22 there shall be added—

“

23.

Land—

(a) the compulsory acquisition of which is authorised by an order under section 1 or 3 of the Transport and Works Act 1992, or

(b) which falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable, or

(c) which is the subject of a proposal, contained in an application made in accordance with rules under section 6 of that Act or in a draft order prepared under section 7(3) of that Act, that it should be such land.

”

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
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Subject: Transport

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

17. Listed buildings and conservation areas.

In section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990, after subsection (3) there shall be inserted—

“(3A) An application for listed building consent shall, without any direction by the Secretary of State, be referred to the Secretary of State instead of being dealt with by the local planning authority in any case where the consent is required in consequence of proposals included in an application for an order under section 1 or 3 of the Transport and Works Act 1992.”

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
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Subject: Transport

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

18. Hazardous substances.

In section 12 of the Planning (Hazardous Substances) Act 1990 (which gives power to deem hazardous substances consent to be granted in certain cases) after subsection (2) there shall be inserted—

“

(2A) On making an order under section 1 or 3 of the Transport and Works Act 1992 which includes any provision that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the Secretary of State may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

”

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
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Subject: Transport

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **January 1, 1993 to present**

(version 1 of 1)

19. Coast Protection Act 1949.

In section 35 of the Coast Protection Act 1949 (which excepts certain operations from the requirement to obtain the Secretary of State's consent under section 34) in subsection (1) there shall be added after paragraph (g)—

“

(h) any operations authorised by an order under section 1 or 3 of the Transport and Works Act 1992.

”

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
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Subject: Transport

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **July 2, 2012** to **present**

(version 5 of 5)

20.— Power to apply for, or object to, orders.

(1) A body which has power to promote or power to oppose Bills in Parliament shall also have power to apply for, or as the case may be power to object to, orders under sections 1 and 3 above.

(2) Where the power of a body to promote or to oppose Bills is subject to any condition, then, except as provided by subsection (3) [or (4)]

¹

below, the corresponding power conferred on the body by subsection (1) above shall be subject to the like condition.

[...]

²

[

(4) In the case of Transport for London—

(a) the powers conferred by subsection (1) above shall be exercisable with the written consent of the Mayor of London; and

(b) subsection (2) above shall not have effect.

]

³

Notes

1. Words added by Greater London Authority Act 1999 c. 29 Pt IV c.II s.168(2) (July 3, 2000)
2. Repealed by British Waterways Board (Transfer of Functions) Order 2012/1659 Sch.3(1) para.12(3) (July 2, 2012 subject to transitional provisions and savings specified in SI 2012/1659 arts 5 and 6)
3. Added by Greater London Authority Act 1999 c. 29 Pt IV c.II s.168(3) (July 3, 2000)

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales
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	by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1

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Subject: Transport

Keywords: Authorised persons; Conditions; Opposition; Powers rights and duties

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Consents etc under other enactments

This version in force from: **January 1, 1993** to **present**

(version 1 of 1)

21.— Transport Consultative Committees.

(1) In section 56 of the Transport Act 1962 (which establishes a Central Transport Consultative Committee and Area Transport Users Consultative Committees) after subsection (6) there shall be inserted—

“

(6A) An Area Committee may consider, and if they think fit object to, any proposal for the discontinuance of railway services made in an application for an order under section 1 of the Transport and Works Act 1992 or made by the Secretary of State by virtue of section 7 of that Act.

”

(2) In section 41 of the London Regional Transport Act 1984 (which provides for the London Regional Passenger Committee to be treated as an Area Transport Users Consultative Committee for certain purposes) in [...]

¹

for “(7)” there shall be substituted “(6A)”.

Notes

¹. Subsection (2)(c)

Modifications

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Subject: Transport

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Miscellaneous

This version in force from: **November 1, 2007** to **present**

(version 2 of 2)

22.— Validity of orders under section 1 or 3.

(1) If a person aggrieved by an order under section 1 or 3 above 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 imposed by or under this Act or the [Tribunals and Inquiries Act 1992]

¹

has not been complied with,

he may, within the period of 42 days beginning with the day on which the notice required by section 14(1)(b) above is published, make an application for the purpose to the High Court.

(2) On any such application, the court—

(a) may by interim order suspend the operation of the order, or of any provision contained in it, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings, and

(b) if satisfied that the order or any provision contained in it is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement imposed by or under this Act or the Tribunals and Inquiries Act [1992]

¹

, may quash the order or any provision contained in it, either generally or in so far as it affects any property of the applicant.

(3) Subject to subsections (1) and (2) above, an order under section 1 or 3 above shall not, either before or after it has been made, be questioned in any legal proceedings whatever.

Notes

¹. Word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.8 para.21 (November 1, 2007)

Modifications

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Subject: Transport

Keywords: Transport and works orders; Validity

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Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Miscellaneous

This version in force from: **August 19, 2013 to present**

(version 10 of 10)

23.— Exercise of Secretary of State's functions by appointed person.

(1) The Secretary of State may by regulations prescribe classes of application which are to be dealt with by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

(2) The Secretary of State may if he thinks fit direct that an application which would otherwise fall to be determined by an appointed person shall be determined by the Secretary of State.

(3) Subject to subsection (4) below, a person appointed under this section shall have in relation to the application—

(a) the same powers and duties as the Secretary of State has under sections 1 and 3 above, and

(b) such other powers and duties conferred on the Secretary of State under or by virtue of this Part of this Act as may be specified in the regulations;

and for that purpose any reference in any Act or instrument (including this Act and any instrument made under it) to the Secretary of State, or to anything done or authorised or required to be done by or to the Secretary of State, shall be construed, so far as the context permits and subject to regulations under this section, as a reference to that person.

(4) An order made on an application dealt with by a person appointed under this section shall not authorise the compulsory acquisition of land, or the compulsory creation or extinguishment of rights over land (including rights of navigation over water).

(5) Where an application has been dealt with by a person appointed under this section, any order made by him under section 1 or 3 shall be treated as made by the Secretary of State.

(6) At any time before the appointed person has determined the application the Secretary of State may—

(a) revoke his appointment, and

(b) appoint another person under subsection (1) above to deal with the application instead;

and where such a new appointment is made the consideration of the application shall begin afresh, except to the extent that regulations under this section provide otherwise.

(7) If the Secretary of State exercises the power conferred on him by subsection (6)(a) above, he shall give reasons to the appointed person for revoking his appointment.

(8) Regulations under this section may provide for the giving of publicity to any directions given by the Secretary of State under subsection (2) above and to any appointment made by virtue of subsection (6) above.

(9) The [Tribunals and Inquiries Act 1992]

[1](#)

shall apply to a local inquiry or other hearing by a person appointed under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in [section 10(1)]

[2](#)

of that Act(statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by an appointed person.

[...]

[3](#)

(10) Where a person appointed under this section is an officer of [[the Department for Communities and Local Government]

[5](#)

, the Department for Transport]

[4](#)

, [the Department of Energy and Climate Change]

[6](#)

or the Welsh Office, his functions shall be treated for the purposes of the Parliamentary Commissioner Act 1967—

[

(a) if he was appointed by the Secretary of State for the time being having general responsibility in transport matters in relation to England, as functions of the Department for Transport;

(b) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to England, as functions of [the Department for Communities and Local Government]

[5](#)

;

]

[7](#)

(c) if he was appointed by the Secretary of State for the time being having general responsibility in energy matters, as functions of [the Department of Energy and Climate Change]

[6](#)

;

(d) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to Wales, as functions of the Welsh Office.

(11) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

1. Word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.8 para.22(2)(a) (November 1, 2007)
2. Words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.8 para.22(2)(b) (November 1, 2007)
3. Repealed by Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013/2042 Sch.1 para.9 (August 19, 2013)
4. Words substituted by Transfer of Functions (Transport, Local Government and the Regions) Order 2002/2626 Sch.2 para.20(a) (November 25, 2002)
5. Words substituted by Secretary of State for Communities and Local Government Order 2006/1926 Sch.1 para.6 (August 21, 2006)
6. Words substituted by Secretary of State for Energy and Climate Change Order 2009/229 Sch.2(1) para.1 (March 5, 2009)
7. S.23(10)(a)-(b) substituted for s.23(10)(a) by Transfer of Functions (Transport, Local Government and the Regions) Order 2002/2626 Sch.2 para.20(b) (November 25, 2002)

Modifications

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Pt I s. 23(10)	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1

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Status: Law In Force**Transport and Works Act 1992 c. 42****Part I ORDERS AUTHORISING WORKS ETC****Miscellaneous**This version in force from: **January 1, 1993 to present**

(version 1 of 1)

24. Private legislation procedure in Scotland.

In section 1 of the Private Legislation Procedure (Scotland) Act 1936 (which requires the promotion of Provisional Orders rather than Private Bills in connection with powers relating to Scotland), in subsection (4) (which provides an exception from the requirement in certain cases relating to Scotland and elsewhere if the promotion of a Private Bill would be more appropriate than the promotion of a Private Bill and a Provisional Order) after the words "Provisional Order" there shall be inserted the words "(or a Provisional Order and an order under section 1 or 3 of the Transport and Works Act 1992)".

Modifications

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Subject: Transport

Status: Law In Force

Transport and Works Act 1992 c. 42

Part I ORDERS AUTHORISING WORKS ETC

Miscellaneous

This version in force from: **January 1, 1993** to **present**

(version 1 of 1)

25.— Crown land.

(1) If the appropriate authority agrees—

(a) an interest which—

(i) subsists in land in which there is a Crown or Duchy interest, but

(ii) is not itself a Crown or Duchy interest,

may be acquired compulsorily by virtue of an order under section 1 or 3 above, and

(b) any provision of this Act or of such an order (other than a provision by virtue of which an interest in land is compulsorily acquired) may apply in relation to land in which there is a Crown or Duchy interest.

(2) In this section “*Crown or Duchy interest*” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

(3) In this section “*the appropriate authority*” means—

(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;

(b) in the case of other land belonging to Her Majesty in right of the Crown, the government department having the management of the land;

(c) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(d) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department.

(4) If any question arises as to what authority is the appropriate authority in relation to any

land, that question shall be referred to the Treasury, whose decision shall be final.

Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1
	Modified in relation to the transfer of functions to the National Assembly of Wales by National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1

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