

PROCEDURE FOR DETERMINATION BY A HIGHWAY AUTHORITY OF CERTAIN QUESTIONS ARISING IN CONNECTION WITH A CATTLE GRID OR BY-PASS

1. — (1) Before determining, under section 82 or 86 of this Act, the questions—
(a) whether it is expedient to place any part of a cattle-grid in, or provide a by-pass on, any such land not forming part of a highway and not belonging to the highway authority as is mentioned in section 82(4), or
(b) whether it is expedient to provide a by-pass along any part of a highway, or
(c) whether the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle-grid,
a highway authority shall comply with the requirements specified in sub-paragraph (2) below.

(2) The requirements referred to in sub-paragraph (1) above are as follows, namely, that the authority shall—
(a) publish in 2 successive weeks in one or more local newspapers circulating in the area where the cattle-grid is to be, or has been, provided a notice—
(i) stating generally the question for determination,
(ii) naming a place within the said area where a copy may be inspected free of charge at all reasonable hours of such plans or other descriptive matter as appear to the highway authority to be requisite for enabling the nature of the question to be understood, and
(iii) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which and the manner in which representations may be made to the highway authority, and
(b) display a like notice in a prominent position at the place where the cattle-grid is to be or has been provided.

2. If no representation is duly made under paragraph 1 above, or if every representation so made is withdrawn, the highway authority may proceed to determine the question.

3. — (1) Where a representation is duly made as aforesaid and not withdrawn, the following provisions have effect.

(2) Where the highway authority is not the Minister, the authority shall forward the representation to the Minister, together with their observations thereon and their proposals, in the light of the representations, for determining the question.

(3) The Minister shall consider any representations received by him (and, where the highway authority is not the Minister, the authority's observations and proposals forwarded to him as aforesaid) and shall either cause a local inquiry to be held or afford to any person by whom a representation has been duly made and not withdrawn and, where the highway authority is not the Minister, to that authority, an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(4) After the Minister has considered the report of the person who held the inquiry under sub-paragraph (3) above, or the person appointed under that sub-paragraph, as the case may be,—
(a) the Minister may, where he is the highway authority, proceed to determine the question;

(b) where he is not the highway authority, the authority may determine the question in the affirmative if the Minister consents, but not otherwise, and subject to compliance with any conditions subject to which his consent is given.

(5) Notwithstanding anything in sub-paragraph (3) above, except where a representation is made by a highway authority other than the Minister, the Minister may, if satisfied that in the special circumstances of the case the holding of a local inquiry or the affording to the person making such representation as aforesaid of an opportunity to be heard by a person appointed by the Minister is unnecessary, proceed without compliance in this respect with the provisions of the said sub-paragraph (3).

(6) As soon as may be after the determination of the question, a notice of the determination shall be sent by the Minister to any person by whom a representation has been made under the foregoing provisions of this Schedule.

4. For the purpose of displaying a notice as required by paragraph 1 above, a highway authority may, on the highway or on adjoining land (whether or not belonging to the authority), erect and maintain posts or boards or affix a notice to any building or structure; but the powers conferred by this paragraph shall not be exercised on land off the highway which is occupied, except with the consent of the occupier.

5. In relation to the exercise by a council of functions of the Minister as highway authority delegated to the council under section 89 of this Act, the foregoing provisions of this Schedule apply as if the council, and not the Minister, were the highway authority.