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SCHEDULES

SCHEDULE 9

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Determination of appeals by Secretary of State

- 3 (1) The Secretary of State may, if he thinks fit, direct that an appeal, which by virtue of paragraph 1 of this Schedule and apart from this sub-paragraph, falls to be determined by a person appointed by the Secretary of State shall instead be determined by the Secretary of State.
- (2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the applicant or appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 29(3)(a) of this Act.
- (3) Where in consequence of a direction under this paragraph an appeal to which this Schedule applies falls to be determined by the Secretary of State, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.
- (4) Where in consequence of a direction under this paragraph the Secretary of State determines an appeal himself, he shall, unless (in the case of an appeal under section 36) the appeal is referred to a Planning Inquiry Commission under section 48 of this Act, afford to the applicant or appellant, the local planning authority and any person who has made any such representations as aforesaid an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose either—
- (a) if the reasons for the direction raise matters with respect to which either the applicant or appellant, or the local planning authority or any such person, have not made representations; or
 - (b) if the applicant or appellant or the local planning authority had not been asked in pursuance of paragraph 2(2) of this Schedule whether they wished to appear before and be heard by a person appointed to hear the appeal, or had been asked that question and had expressed no wish in answer thereto, or had expressed a wish to appear and be heard as aforesaid, but had not been afforded an opportunity of doing so.
- (5) Except as provided by sub-paragraph (4) of this paragraph, where the Secretary of State determines an appeal in consequence of a direction under this paragraph he shall not be obliged to afford any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made; and in determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.