
Changes to legislation: Planning (Hazardous Substances) Act 1990, Cross Heading: Determination of appeals by Secretary of State is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE

DETERMINATION OF 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 would otherwise fall to be determined by an appointed person shall instead be determined by the Secretary of State.
- (2) Such a direction shall state the reasons for which it is given and shall be served on the appellant, the hazardous substances authority, any person who made representations relating to the subject matter of the appeal which the authority were required to take into account by regulations made under section 8(4) or, as the case may be, regulations made under section 17(2) making provision corresponding to section 8(4) and, if any person has been appointed under paragraph 1, on him.
- (3) Where in consequence of such a direction an appeal under section 21 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) The Secretary of State shall give the appellant, the hazardous substances authority and any person who has made such representations as are referred to in sub-paragraph (2) an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose if—
- (a) the reasons for the direction raise matters with respect to which any of those persons have not made representations; or
 - (b) in the case of the appellant or the hazardous substances authority, either of them was not asked in pursuance of paragraph 2(2) whether they wished to appear before and be heard by the appointed person, or expressed no wish in answer to that question, or expressed a wish to appear and be heard but was not given an opportunity of doing so.
- [^{F1}(4C) Sub-paragraph (4) does not apply in the case of an appeal to the Welsh Ministers.
- (4D) In the case of an appeal to which section 21B applies, the Welsh Ministers must give the appellant, the hazardous substances authority and any person who has made representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.]
- (5) Except as provided by sub-paragraph (4) [^{F2}or (4D)], the Secretary of State need not give 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.
- (6) 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.

Textual Amendments

- F1** Sch. para. 3(4C)(4D) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014](#), Sch. 1 para. 29(4).

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F2 Words in Sch. para. 3(5) inserted (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014](#), Sch. 1 para. 29(5).

Commencement Information

I1 Sch. para. 3 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; Sch. para. 3 in force for certain purposes at 11.3.1992, see S.I. 1992/725, art. 2

- 4 (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 at any time before the determination of the appeal.
- (2) Such a further direction shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the appellant, the hazardous substances authority and any person who made representations relating to the subject matter of the appeal which the authority were required to take into account by regulations made under section 8(4) or, as the case may be, regulations made under section 17(2) making provision corresponding to section 8(4).
- (3) Where such a further direction has been given the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.
- (4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the appointed person (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.

Commencement Information

I2 Sch. para. 4 wholly in force at 1.6.1992 see S.I. 1992/725, art. 3; Sch. para. 4 in force for certain purposes at 11.3.1992 see S.I. 1992/725, art. 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(4A) inserted by [2023 c. 55 Sch. 17 para. 4\(b\)](#)
- s. 9(2)(ca) inserted by [2023 c. 55 Sch. 6 para. 14](#)
- s. 20(4A) inserted by [2008 c. 29 Sch. 10 para. 26](#)
- s. 21(5A) inserted by [2008 c. 29 Sch. 10 para. 27](#)
- s. 37(3) inserted by [2008 c. 29 Sch. 10 para. 29](#)
- Sch. para. 2(4A) inserted by [2008 c. 29 Sch. 10 para. 30\(2\)](#)
- Sch. para. 2(9) inserted by [2008 c. 29 Sch. 10 para. 30\(3\)](#)
- Sch. para. 3(4A)(4B) inserted by [2008 c. 29 Sch. 10 para. 30\(4\)](#)
- Sch. para. 6(1A) inserted by [2008 c. 29 Sch. 10 para. 30\(6\)](#)