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## SCHEDULES

### SCHEDULE 20

Section 114.

#### DELEGATION OF APPELLATE FUNCTIONS OF THE SECRETARY OF STATE

##### Modifications etc. (not altering text)

- C1** Sch. 20 applied (with modifications) (E.W.) (4.5.2000) by S.I. 2000/1043, reg. 8  
Sch. 20 applied (S.) (8.5.2000) by S.S.I. 2000/95, reg. 8

##### *Interpretation*

- 1 In this Schedule—  
“appointed person” means a person appointed under section 114(1)(a) of this Act; and  
“appointment”, in the case of any appointed person, means appointment under section 114(1)(a) of this Act.

##### *Appointments*

- 2 An appointment under section 114(1)(a) of this Act must be in writing and—  
(a) may relate to any particular appeal, matters or questions specified in the appointment or to appeals, matters or questions of a description so specified;  
(b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment; and  
(c) may, by notice in writing given to the appointed person, be revoked at any time by the Secretary of State in respect of any appeal, matter or question which has not been determined by the appointed person before that time.

##### *Powers of appointed person*

- 3 Subject to the provisions of this Schedule, an appointed person shall, in relation to any appeal, matter or question to which his appointment relates, have the same powers and duties as the Secretary of State, other than—  
(a) any function of making regulations;  
(b) any function of holding an inquiry or other hearing or of causing an inquiry or other hearing to be held; or  
(c) any function of appointing a person for the purpose—  
(i) of enabling persons to appear before and be heard by the person so appointed; or  
(ii) of referring any question or matter to that person.

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*Holding of local inquiries and other hearings by appointed persons*

- 4 (1) If either of the parties to an appeal, matter or question expresses a wish to appear before and be heard by the appointed person, the appointed person shall give both of them an opportunity of appearing and being heard.
- (2) Whether or not a party to an appeal, matter or question has asked for an opportunity to appear and be heard, the appointed person—
- (a) may hold a local inquiry or other hearing in connection with the appeal, matter or question, and
  - (b) shall, if the Secretary of State so directs, hold a local inquiry in connection with the appeal, matter or question,
- but this sub-paragraph is subject to sub-paragraph (3) below.
- (3) No local inquiry shall be held by virtue of this Schedule in connection with an appeal under—
- (a) section 42B(5) of the <sup>M1</sup>Control of Pollution Act 1974,
  - (b) section 22(5), 66(5) or 78T(3) of the <sup>M2</sup>Environmental Protection Act 1990, or
  - (c) section 191B(5) of the <sup>M3</sup>Water Resources Act 1991,
- (appeals against decisions that information is not commercially confidential), or any matter involved in such an appeal, and any hearing held by virtue of this Schedule in connection with any such appeal or matter must be held in private.
- (4) Where an appointed person holds a local inquiry or other hearing by virtue of this Schedule, an assessor may be appointed by the Secretary of State to sit with the appointed person at the inquiry or hearing and advise him on any matters arising, notwithstanding that the appointed person is to determine the appeal, matter or question.
- (5) Subject to paragraph 5 below, the costs of a local inquiry held under this Schedule shall be defrayed by the Secretary of State.

**Marginal Citations**

**M1** 1974 c. 40.

**M2** 1990 c. 43.

**M3** 1991 c. 57.

*Local inquiries under this Schedule: evidence and costs*

- 5 (1) In relation to England and Wales, subsections (2) to (5) of section 250 of the <sup>M4</sup>Local Government Act 1972 (local inquiries: evidence and costs) shall apply to local inquiries or other hearings held under this Schedule by an appointed person as they apply to inquiries caused to be held under that section by a Minister, but with the following modifications, that is to say—
- (a) with the substitution in subsection (2) (evidence) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;

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- (b) with the substitution in subsection (4) (recovery of costs of holding the inquiry) for the references to the Minister causing the inquiry to be held of references to the Secretary of State;
  - (c) taking the reference in that subsection to a local authority as including the Agency; and
  - (d) with the substitution in subsection (5) (orders as to the costs of the parties) for the reference to the Minister causing the inquiry to be held of a reference to the appointed person or the Secretary of State.
- (2) In relation to Scotland, subsections (3) to (8) of section 210 of the <sup>M5</sup>Local Government (Scotland) Act 1973 (which relate to the costs of and holding of local inquiries) shall apply to local inquiries or other hearings held under this Schedule as they apply to inquiries held under that section, but with the following modifications, that is to say—
- (a) with the substitution in subsection (3) (notice of inquiry) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;
  - (b) with the substitution in subsection (4) (evidence) for the reference to the person appointed to hold the inquiry and, in paragraph (b), the reference to the person holding the inquiry of references to the appointed person;
  - (c) with the substitution in subsection (6) (expenses of witnesses etc.) for the references to the Minister causing the inquiry to be held of a reference to the appointed person or the Secretary of State;
  - (d) with the substitution in subsection (7) (expenses) for the references to the Minister of references to the appointed person or the Secretary of State;
  - (e) with the substitution in subsection (7A) (recovery of entire administrative expense)—
    - (i) for the first reference to the Minister of a reference to the appointed person or the Secretary of State;
    - (ii) in paragraph (a), for the reference to the Minister of a reference to the Secretary of State; and
    - (iii) in paragraph (b), for the reference to the Minister holding the inquiry of a reference to the Secretary of State;
  - (f) with the substitution in subsection (7B) (power to prescribe daily amount)—
    - (i) for the first reference to the Minister of a reference to the Secretary of State;
    - (ii) in paragraphs (a) and (c), for the references to the person appointed to hold the inquiry of references to the appointed person; and
    - (iii) in paragraph (d), for the reference to the Minister of a reference to the appointed person or the Secretary of State; and
  - (g) with the substitution in subsection (8) (certification of expenses) for the reference to the Minister, the reference to him and the reference to the Crown of references to the appointed person or the Secretary of State.

**Marginal Citations**

**M4** 1972 c. 70.

**M5** 1973 c. 65.

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*Revocation of appointments and making of new appointments*

- 6 (1) Where under paragraph 2(c) above the appointment of the appointed person is revoked in respect of any appeal, matter or question, the Secretary of State shall, unless he proposes to determine the appeal, matter or question himself, appoint another person under section 114(1)(a) of this Act to determine the appeal, matter or question instead.
- (2) Where such a new appointment is made, the consideration of the appeal, matter or question, or any hearing in connection with it, shall be begun afresh.
- (3) Nothing in sub-paragraph (2) above shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

*Certain acts and omissions of appointed person to be treated as those of the Secretary of State*

- 7 (1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the Secretary of State in his capacity as such.
- (2) Sub-paragraph (1) above shall not apply—
- (a) for the purposes of so much of any contract made between the Secretary of State and the appointed person as relates to the exercise of the function; or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.

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