



# Transport and Works Act 1992

## 1992 CHAPTER 42

### PART I

#### ORDERS AUTHORISING WORKS ETC

##### *Miscellaneous*

#### **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).

*Changes to legislation: There are currently no known outstanding effects for the  
Transport and Works Act 1992, Section 23. (See end of Document for details)*

- (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 <sup>M1</sup>Tribunals and Inquiries Act [<sup>F1</sup>1992] 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 [<sup>F2</sup>section 10(1)] 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.

<sup>F3</sup>(9A) . . . . .

- <sup>F4</sup>(10) Where a person appointed under this section is an officer of [<sup>F5</sup>the Department for Levelling Up, Housing and Communities], the Department for Transport], [<sup>F6</sup>Department for Energy Security and Net Zero] or the Welsh Office, his functions shall be treated for the purposes of the <sup>M2</sup>Parliamentary Commissioner Act 1967—
  - <sup>F7</sup>(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 [<sup>F5</sup>the Department for Levelling Up, Housing and Communities];]
  - (c) if he was appointed by the Secretary of State for the time being having general responsibility in energy matters, as functions of [<sup>F6</sup>Department for Energy Security and Net Zero];
  - (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.

<p><b>Textual Amendments</b></p> <p><b>F1</b> Word in s. 23(9) substituted (1.11.2007) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (c. 15)</a>, s. 148, <a href="#">Sch. 8 para. 22(2)(a)</a>; S.I. 2007/2709, art. 3(b)(i)</p>
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- F2** Words in s. 23(9) substituted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 8 para. 22(2)(b)**; S.I. 2007/2709, art. 3(b)(i)
- F3** S. 23(9A) omitted (19.9.2013) by virtue of The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 9**
- F4** Words in s. 23(10) substituted (25.11.2002) by The Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626), art. 20, **Sch. 2 para. 20(a)**
- F5** Words in s. 23(10) substituted (8.12.2021) by The Transfer of Functions (Secretary of State for Levelling Up, Housing and Communities) Order 2021 (S.I. 2021/1265), art. 1(2), **Sch. 2 para. 10** (with art. 12)
- F6** Words in s. 23(10) substituted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), **Sch. para. 7** (with art. 17)
- F7** S. 23(10)(a)(b) substituted (25.11.2002) for s. 23(10)(a) by The Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626), art. 20, **Sch. 2 para. 20(b)**

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#### **Commencement Information**

- I1** Pt. I (ss. 1-25) wholly in force at 1. 1. 1993 see s. 70 and S.I. 1992/2784, art. 2, **Sch. 1**.

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#### **Marginal Citations**

- M1** 1971 c. 62.  
**M2** 1967 c. 13.

**Changes to legislation:**

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