

SCHEDULES

SCHEDULE 3

Section 8(2).

DELEGATION OF APPELLATE FUNCTIONS

Interpretation

1 In this Schedule—

“appointed person” means a person appointed under section 8(1)(a);

“the appointing authority” means—

- (a) the Secretary of State, in relation to an appointment made by him, or
- (b) the National Assembly for Wales, in relation to an appointment made by it;

“appointment”, in the case of any appointed person, means appointment under section 8(1)(a).

Appointments

2 An appointment under section 8(1)(a) must be in writing and—

- (a) may relate to any particular appeal or matter specified in the appointment or to appeals or matters 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 appointing authority in respect of any appeal or matter 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 or matter to which his appointment relates, have the same powers and duties as the appointing authority, 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.

Status: This is the original version (as it was originally enacted).

Holding of local inquiries and other hearings by appointed persons

- 4 (1) If either of the parties to an appeal or matter 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 or matter 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 or matter, and
 - (b) shall, if the appointing authority so directs, hold a local inquiry in connection with the appeal or matter.
- (3) Where an appointed person holds a local inquiry or other hearing by virtue of this Schedule, an assessor may be appointed by the appointing authority 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 or matter.
- (4) Subject to paragraph 5, the costs of a local inquiry held under this Schedule shall be defrayed by the appointing authority.

Local inquiries under this Schedule: evidence and costs

- 5 Subsections (2) to (5) of section 250 of the 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 as if—
- (a) in subsection (2) (evidence) the reference to the person appointed to hold the inquiry were a reference to the appointed person,
 - (b) in subsection (4) (recovery of costs of holding the inquiry)—
 - (i) references to the Minister causing the inquiry to be held were references to the appointing authority, and
 - (ii) references to a local authority included references to the appropriate countryside body, and
 - (c) in subsection (5) (orders as to the costs of the parties) the reference to the Minister causing the inquiry to be held were a reference to the appointed person or the appointing authority.

Revocation of appointments and making of new appointments

- 6 (1) Where under paragraph 2(c) the appointment of the appointed person is revoked in respect of any appeal or matter, the appointing authority shall, unless he proposes to determine the appeal or matter himself, appoint another person under section 8(1)(a) to determine the appeal or matter instead.
- (2) Where such a new appointment is made, the consideration of the appeal or matter, or any hearing in connection with it, shall be begun afresh.
- (3) Nothing in sub-paragraph (2) 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 appointing authority

- 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 appointing authority.
- (2) Sub-paragraph (1) does not apply—
- (a) for the purposes of so much of any contract made between the appointing authority 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.