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SCHEDULES

SCHEDULE 9

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Powers and duties of person determining appeal

- 2 (1) A person appointed under this Schedule to determine an appeal shall have the like powers and duties in relation to the appeal as the Secretary of State under whichever are relevant of the following provisions, that is to say—
- (a) in relation to appeals under section 36 subsections (3) and (5) of that section ;
 - (b) in relation to appeals under section 88 subsections (4) to (6) of that section ;
 - (c) in relation to appeals under section 95 subsections (2) and (3) of that section ;
 - (d) in relation to appeals under section 97 subsections (4) and (5) of that section ;
 - (e) in relation to appeals under section 103 sections 88(4) and (5) of this Act;
 - (f) in relation to appeals under paragraph 8 of Schedule 11 to this Act, subparagraph (3) of that paragraph.
- (2) The provisions of sections 36(4), 88(2), 95(4), 97(2) and paragraph 8(4) of Schedule 11 to this Act relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an appeal which falls to be determined by a person appointed under this Schedule but before the determination of any such appeal the Secretary of State 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, ask the applicant or appellant, as the case may require, and the local planning authority whether they wish to appear before and be heard by the person so appointed, and—
- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid; and
 - (b) the person so appointed shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.
- (3) Where an appeal to which this Schedule applies has been determined by a person appointed under this Schedule, his decision shall be treated as that of the Secretary of State and—
- (a) except as provided by Part XII of this Act, the validity of his decision shall not be questioned in any proceedings whatsoever;
 - (b) it shall not be a ground of application to the High Court under section 245 of this Act, or of appeal to the High Court under section 246 or 247 thereof, that the appeal ought to have been determined by the Secretary of State and not by that person, unless the challenge to the person's power to determine the appeal was made (either by the appellant or the local planning authority) before his decision on the appeal was given.
- (4) Where in any enactment (including this Act) there is a reference to the Secretary of State in a context relating or capable of relating to an appeal to which this Schedule

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applies, or to any thing done or authorised or required to be done by, to or before the Secretary of State on or in connection with any such appeal, then so far as the context permits it shall be construed, in relation to an appeal determined or falling to be determined by a person appointed under this Schedule, as a reference to that person.