

Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Cross Heading: Determination of appeals by Secretary of State is up to date with all changes known to be in force on or before 07 August 2023. 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

SCHEDULES

SCHEDULE 3

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Modifications etc. (not altering text)

- C1** Sch. 3 savings for effects of 2011 asp 3 s. 21 (1.12.2011) by [The Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(Saving, Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/377\)](#), arts. 1(1), **6(b)**

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 planning authority, any person who made representations relating to the subject matter of the appeal which the authority are required to take into account by regulations made under section 10(2) and, if any person has been appointed under paragraph 1, on him.
- (3) Where in consequence of such a direction an appeal under section [^{F1}5B,] 18 or 35 falls to be determined by the Secretary of State himself, 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.
- ^{F2}(4)
- ^{F2}(5)
- (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** Word in Sch. 3 para. 3(3) inserted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 3 para. 23(e)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F2** Sch. 3 para. 3(4)(5) repealed (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 21(b)(ii)**, 33(2); S.S.I. 2011/372, art. 2, sch.

- 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.

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- (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 planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account by regulations made under section 10(2).
- (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.

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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. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)