

THE SCHEDULE

CONTROL OF OFF-STREET PARKING

PART III

Rights of appeal

14.—(1) If a person who is, or who proposes to become, the operator of a public off-street parking place in a controlled area or any other person entitled to an interest in the premises used or proposed to be used for the purposes of that parking place is aggrieved by a decision of the local authority—

- (a) to refuse an application for the grant of a licence in respect of those premises; or
- (b) as to the terms and conditions to be specified under Article 7(b) and (c) of this Order in a licence granted in respect of those premises; or
- (c) to refuse an application for a variation of the terms and conditions so specified in a permanent licence granted in respect of those premises; or
- (d) to revoke a licence granted in respect of those premises; or
- (e) to vary under Part II of this Schedule any of the terms and conditions specified under the said Article 7(b) and (c) in a permanent licence granted in respect of those premises,

he may by notice served within such time (not being less than twenty-eight days from the date of notification of the decision to which it relates) and in such manner as the Secretary of State may by regulations under paragraph 17 of this Schedule direct, appeal to the Secretary of State from that decision.

(2) If in a case where—

- (a) a person makes an application to the local authority for a licence in respect of premises in respect of which a licence is not for the time being in force; or
- (b) the person who is the holder of a permanent licence in respect of any premises duly makes an application to the local authority for a specified variation of the terms and conditions of the licence specified under the said Article 7(b) and (c),

the local authority have not notified that person of their decision on his application by the expiration of the period of two months beginning with the date when they received the application or such longer period beginning with that date as may have been agreed for the purpose between that person and the local authority, the local authority shall be deemed for the purposes of this Schedule to have notified that person at the date of the expiration of that period that they have decided to refuse the application.

15. The Secretary of State shall not be required to entertain an appeal under this Part of this Schedule from any decision of a local authority if or to the extent that it appears to him that the decision was necessary in order to comply with the requirements of this Order or with any regulations made by the county council by virtue of Article 4 of this Order which are for the time being in force.

16.—(1) Subject to sub-paragraph (2) of this paragraph, before determining an appeal under this Part of this Schedule the Secretary of State shall, if either the appellant or the local authority so request, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(2) If the Secretary of State thinks fit in any case where such a request as aforesaid is made, he may, instead of complying with that request, appoint a person to hold an inquiry in connection with the appeal, and subsections (2) and (5) of section 250 of the Local Government Act 1972 shall apply to any such inquiry.

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17.—(1) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with appeals under this Part of this Schedule, including the procedure in connection with matters preparatory to, or subsequent to, the consideration of the appeal.

(2) Any such regulations shall include provision for the giving of notice to the county council of any appeal under this Part of this Schedule and of any request made under paragraph 16(1) thereof, and for enabling the county council to make representations with respect to the matter in question and to appear before and be heard by any person appointed by the Secretary of State for the purposes of sub-paragraph (1) or (2) of the said paragraph 16.

(3) Any regulations under this paragraph shall be made by statutory instrument and be subject to annulment in pursuance of a resolution of either House of Parliament.

18.—(1) On an appeal being brought under this Part of this Schedule from a decision of the local authority, the Secretary of State may either dismiss the appeal or substitute for that decision such other decision, as he thinks fit; and, subject to sub-paragraph (2) of this paragraph, the decision of the Secretary of State on the appeal shall be final and shall be binding both on the appellant and on the local authority, and the local authority shall take such steps as may be necessary to give effect to any such substituted decision.

(2) Subsection (1) of section 13 of the Tribunals and Inquiries Act 1971 (which relates to appeals on points of law from decisions of certain tribunals) shall apply to a decision of the Secretary of State on an appeal under this Part of this Schedule as it applies to a decision of any of the tribunals mentioned in that subsection, but as if the reference to any party to proceedings before such a tribunal were a reference to the local authority or any person who had, or if aggrieved would have had, a right to appeal to the Secretary of State under this Part of this Schedule, whether or not he has exercised that right, and accordingly references in subsections (1) and (3) of that section to a tribunal shall be construed in relation to such an appeal as references to the Secretary of State.