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**Changes to legislation:** There are currently no known outstanding effects for the High Speed Rail (London - West Midlands) Act 2017, Cross Heading: Appeals. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 17

#### CONDITIONS OF DEEMED PLANNING PERMISSION

#### PART 3

##### APPROVALS: SUPPLEMENTARY

##### *Appeals*

- 22 (1) Where the nominated undertaker is aggrieved by a decision of a planning authority on a request for approval under Part 1 (including a decision to require additional details), it may appeal to the appropriate Ministers by giving notice of the appeal in the prescribed form to them and to the authority whose decision is appealed against within 42 days of notification of the decision.
- (2) On an appeal under this paragraph, the appropriate Ministers may allow or dismiss the appeal or vary the decision of the authority whose decision is appealed against, but may only make a determination involving—
- (a) the refusal of approval, or
  - (b) the imposition of conditions on approval,
- on a ground open to that authority.
- (3) Where, following receipt by a planning authority of a request by the nominated undertaker for approval under Part 1, the authority does not notify the undertaker within the appropriate period—
- (a) of its decision on the request, or
  - (b) that the request has been referred to the appropriate Ministers in accordance with directions under paragraph 20,
- this paragraph applies as if the authority had refused the request and notified the undertaker of its decision on the last day of the appropriate period.
- (4) For the purposes of sub-paragraph (3), the appropriate period is the period of 8 weeks beginning with the date on which the request was received by the planning authority or such extended period as may be agreed upon in writing between the authority and the nominated undertaker.
- (5) The appropriate Ministers may by regulations make provision for the extension of the appropriate period for the purposes of sub-paragraph (3) in connection with the payment of fees by means of cheque.
- (6) An agreement under sub-paragraph (4) may be made after, as well as before, the end of the appropriate period.
- (7) No agreement may be made under sub-paragraph (4) to extend a period after it has ended if the nominated undertaker has given notice of appeal against the refusal

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which is deemed under sub-paragraph (3) to have occurred because of the ending of the period.

- (8) Where an agreement under sub-paragraph (4) to extend a period is made after the period has ended, sub-paragraph (3) is to be treated as not having applied when the period ended.
  - (9) In this paragraph, “prescribed” means prescribed by regulations made by the appropriate Ministers.
  - (10) No appeal under section 78 of the Town and Country Planning Act 1990 (right to appeal against planning decisions and failure to take such decisions) may be made against a decision, or failure to notify a decision, in relation to which a right of appeal arises under this paragraph.
- 23
- (1) Unless the appropriate Ministers direct otherwise, their functions in relation to the determination of an appeal under paragraph 22 must, instead of being carried out by them, be carried out by a person appointed by them for the purpose.
  - (2) The appropriate Ministers may by a further direction revoke a direction under sub-paragraph (1) at any time before the determination of the appeal.
  - (3) A direction under sub-paragraph (1) or (2) must be served on the nominated undertaker and the planning authority whose decision is appealed against.
  - (4) At any time before the determination of an appeal by a person appointed for the purpose under this paragraph, the appropriate Ministers may revoke the appointment and appoint another person to determine the appeal instead.
  - (5) Where the function of determining an appeal under paragraph 22 is transferred from one person to another, the person to whom the function is transferred must consider the matter afresh, but the fact that the function is transferred does not entitle any person to make fresh representations or to modify or withdraw any representations already made.
  - (6) If the appropriate Ministers determine an appeal which another person was previously appointed to determine, they may, in determining it, take into account any report made to them by that person.
- 24
- The decision of the person appointed under paragraph 23, or, as the case may be, of the appropriate Ministers, on an appeal under paragraph 22 is final.
- 25
- (1) An appeal under paragraph 22 is to be dealt with on the basis of written representations, unless the person deciding the appeal directs otherwise.
  - (2) Subject to that, the appropriate Ministers may by regulations make such provision as they think fit about procedure in relation to appeals under paragraph 22.
  - (3) Regulations under this paragraph may, in particular—
    - (a) make provision for a time limit within which any person entitled to make representations must submit them in writing and any supporting documents,
    - (b) empower the person deciding an appeal to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and
    - (c) empower the person deciding an appeal, after giving written notice of intention to do so to the nominated undertaker and the planning authority whose decision is appealed against, to proceed to a decision notwithstanding

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that no written representations were made within the time limit, if it appears to the person that there is sufficient material before the person to enable a decision on the merits of the case.

- (4) Regulations under this paragraph may, in relation to such a time limit as is mentioned in sub-paragraph (3)(a)—
- (a) prescribe the time limit in regulations, or
  - (b) enable the appropriate Ministers to give directions setting the time limit in a particular case or class of case.

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