

SCHEDULE 5

Regulations 19 and 21

Appeals

PART 1

Appeals when the Secretary of State is not the enforcing authority

1. This Part applies when the Secretary of State is not the enforcing authority.
2. Notification of appeal must contain—
 - (a) a copy of the notification or remediation notice appealed against; and
 - (b) the grounds of appeal.
3. When notification is received, the Secretary of State must send a copy of the notification of appeal to the enforcing authority, and the enforcing authority must immediately send a copy to any person who appears to it to have a particular interest in the subject matter of the appeal, and notify the Secretary of State whom it has notified.
4. The Secretary of State must notify the appellant of the time limit within which the appellant must provide in writing—
 - (a) a statement of case; and
 - (b) all relevant correspondence.
5. When these are received, the Secretary of State must send all the documents to the enforcing authority, giving the enforcing authority a time limit within which it must provide a written response.
6. At the same time the Secretary of State must notify any person notified under paragraph 3 of the time limit under paragraph 5 and invite them make representations before that date.
7. The Secretary of State must then decide whether further evidence is needed, and give directions accordingly.
8. The Secretary of State must then refer the appeal to a person appointed by the Secretary of State to deal with the appeal, and specify to the appointed person whether or not the appeal must be dealt with by written procedure or whether a hearing must be held.
9. Following the conclusion of the appeal by the appointed person, the appointed person must decide the matter or, if so directed by the Secretary of State at any stage before the decision is made, make a recommendation to the Secretary of State, who must decide the appeal.
10. The person deciding the appeal may make such order as to the costs of the parties (including parties who make representation) as is fit.

PART 2

Appeals when the Secretary of State is the enforcing authority

11. If the Secretary of State is the enforcing authority, the procedures in Part 1 apply except that—
 - (a) the Secretary of State must appoint an appointed person as soon as notification of appeal is received;
 - (b) the appointed person must carry out the functions of the Secretary of State specified in that Part; and
 - (c) the appointed person must in all cases decide the appeal.