

SCHEDULE 3

Appeals to the Secretary of State

PART 3

Determination of appeals

Decisions of the Secretary of State

9.—(1) On determining an appeal relating to a valid notice under paragraph 30 or 36, the Secretary of State may—

- (a) if the appeal is an appeal to which paragraph 30 or 36(1)(a) of Schedule 2 applies (that is, against a decision to grant or refuse a routine or excepted application)—
 - (i) confirm the decision of the NHSCB,
 - (ii) quash the decision and redetermine the application, or
 - (iii) quash the decision and remit the matter to the NHSCB for it to redetermine the application, where the Secretary of State considers that there should be a (further) notification under paragraph 19 of Schedule 2, subject to such directions as the Secretary of State considers appropriate; or
- (b) if the appeal is an appeal to which paragraph 32(5) or 36(1)(b) to (f) applies—
 - (i) confirm the decision of the NHSCB, or
 - (ii) substitute for that decision any decision that the NHSCB could have taken when it took that decision.

(2) If the Secretary of State grants or confirms the grant of a routine application, the Secretary of State may direct the NHSCB—

- (a) to impose a condition under paragraph 33, in circumstances where the NHSCB could have imposed such a decision if it had granted the application; or
- (b) to take such action under regulation 50(4) or (5) as the Secretary of State thinks fit.

(3) On determining an appeal relating to a valid notice under regulation 45, the Secretary of State may—

- (a) confirm the decision or determination of the NHSCB;
- (b) substitute for that decision or determination any decision or determination that the NHSCB could have taken when it took that decision or made that determination; or
- (c) quash the decision or determination of the NHSCB and remit the matter to it for it to redetermine the decision or determination, subject to such directions as the Secretary of State considers appropriate.

(4) On determining an appeal relating to a valid notice under regulation 63, the Secretary of State may—

- (a) in the case of decision or determination mentioned in regulation 63(1)(a), (b), (e) or (f)—
 - (i) confirm the decision or determination of the NHSCB,
 - (ii) substitute for that decision or determination any decision or determination that the NHSCB could have taken when it took that decision or made that determination, or
 - (iii) quash the decision or determination of the NHSCB and remit the matter to it for it to redetermine the decision or determination, subject to such directions as the Secretary of State considers appropriate; or

Status: This is the original version (as it was originally made).

- (b) if the appeal is against a decision to grant or refuse an application for outline consent or premises approval—
 - (i) confirm the decision of the NHSCB,
 - (ii) quash the decision of the NHSCB and redetermine the application, or
 - (iii) quash the decision of the NHSCB and remit the matter to it for it to redetermine the application, subject to such directions as the Secretary of State considers appropriate.
- (5) On determining an appeal relating to a valid notice under regulation 77, the Secretary of State may—
 - (a) confirm the decision of the NHSCB; or
 - (b) substitute for that decision any decision that the NHSCB could have taken when it took that decision.
- (6) If the Secretary of State grants or confirms the grant of an application for—
 - (a) outline consent, the Secretary of State may direct the NHSCB to take such action under regulation 53(3) as the Secretary of State thinks fit; or
 - (b) premises approval, the Secretary of State may direct the NHSCB to take such action under regulation 57 as the Secretary of State thinks fit.