

SCHEDULE 8

APPEALS TO THE SCOTTISH MINISTERS

4.—(1) Before determining an appeal under regulation 58, the Scottish Ministers may afford the appellant and SEPA an opportunity of appearing before and being heard by a person appointed by the Scottish Ministers (the “appointed person”) and they must do so in any case where a request is duly made by the appellant or SEPA to be so heard.

(2) A hearing may, if the appointed person so decides, be held wholly or partly in private.

(3) Where the Scottish Ministers cause a hearing to be held, they must give the appellant and SEPA at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(4) Where any part of a hearing is to be held in public, the Scottish Ministers must, at least 21 days before the date fixed for the holding of the hearing—

(a) where the appeal relates to the operation of an installation, publish a copy of the notice mentioned in sub-paragraph (3) in a newspaper circulating in the locality in which the installation is operated,

(b) serve a copy of that notice on every person mentioned in paragraph 3(1)(a) and on every person mentioned in paragraphs 3(1)(b) and (c) who has made representations to the Scottish Ministers.

(5) The Scottish Ministers may vary the date fixed for the holding of any hearing, and sub-paragraphs (3) and (4) shall apply to the variation of a date as they applied to the date originally fixed.

(6) The Scottish Ministers may also vary the time or place for the holding of a hearing and must give such notice of any such variation as appears to them to be reasonable.

(7) The persons entitled to be heard at a hearing are—

(a) the appellant,

(b) SEPA, and

(c) any person required under paragraph 3(1)(a) to be notified of the appeal.

(8) Nothing in sub-paragraph (7) prevents the appointed person from permitting any other persons to be heard at the hearing and such permission must not be unreasonably withheld.

(9) After the conclusion of a hearing, the appointed person must make a report to the Scottish Ministers in writing which must include the conclusions and recommendations of that person or the reasons for not making any recommendation.

(10) Subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973(1) (which relates to the costs of and holding of local inquiries) apply to hearings held under this paragraph by an appointed person as they apply to inquiries held under that section, but with the substitution—

(a) in subsection (3) (notice of inquiry) for the reference to the person appointed to hold the inquiry of a reference to the appointed person,

(b) in subsection (4) (evidence) for the reference to the person appointed to hold the inquiry and, in paragraph (b), the reference to the person holding the inquiry of references to the appointed person,

(c) in subsection (6) (expenses of witnesses etc.) for the references to the Minister causing the inquiry to be held of a reference to the appointed person or the Scottish Ministers,

(d) in subsection (7) (expenses) for the references to the Minister of references to the appointed person or the Scottish Ministers,

(1) 1973 c.65; section 210 was amended by the Housing and Planning Act 1986 (c.63), Schedule 11, paragraph 39.

- (e) in subsection (7A) (recovery of entire administrative expense)—
 - (i) for the first reference to the Minister of a reference to the appointed person or the Scottish Ministers,
 - (ii) in paragraph (a), for the reference to the Minister of a reference to the Scottish Ministers, and
 - (iii) in paragraph (b), for the reference to the Minister holding the inquiry of a reference to the Scottish Ministers,
- (f) in subsection (7B) (power to prescribe), in paragraphs (a) and (b) for the references to the person appointed to hold the inquiry of references to the appointed person, and
- (g) in subsection (8) (certification of expenses) for the reference to the Minister, the reference to him and the reference to the Crown of references to the appointed person or the Scottish Ministers.