

## SCHEDULE 8

### PROCEDURES IN CONNECTION WITH APPEALS TO THE SCOTTISH MINISTERS

4.—(1) Before determining an appeal under regulation 22, the Scottish Ministers may afford the appellant and SEPA an opportunity of appearing before and being heard by a person appointed by him (the “appointed person”) and they shall do so in any case where a request is duly made by the appellant or SEPA to be so heard.

(2) A hearing held under sub-paragraph (1) may, if the appointed person so decides, be held wholly, or held to any extent, in private.

(3) Where the Scottish Ministers cause a hearing to be held under sub-paragraph (1), they shall give the appellant and SEPA at least 28 days written 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) In the case of a hearing which is to be held wholly or partly in public, the Scottish Ministers shall, 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 or Part A mobile plant, publish a copy of the notice mentioned in sub-paragraph (3) in a newspaper circulating in the locality in which the installation or mobile plant 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 shall 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) shall prevent the appointed person from permitting any other persons to be heard at the hearing and such permission shall not be unreasonably withheld.

(9) After the conclusion of a hearing, the appointed person shall make a report to the Scottish Ministers in writing (or in electronic form acceptable to them) which shall 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) shall apply to hearings held under this paragraph by an appointed person as they apply to inquiries held under that section, but with the following modifications, that is to say:—

- (a) with the substitution 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) with the substitution 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;

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

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (c) with the substitution 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) with the substitution in subsection (7) (expenses) for the references to the Minister of references to the appointed person or the Scottish Ministers;
- (e) with the substitution 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) with the substitution in subsection (7B) (power to prescribe daily amount)—
  - (i) for the first reference to the Minister of a reference to the Scottish Ministers;
  - (ii) in paragraphs (a) and (c), for the references to the person appointed to hold the inquiry of references to the appointed person; and
  - (iii) in paragraph (d), for the reference to the Minister of a reference to the appointed person or the Scottish Ministers; and
- (g) with the substitution 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.