

SCHEDULE 5

Regulation 17(12)

DELEGATION OF APPELLATE FUNCTIONS

1. In this Schedule “appointed person” means a person appointed under paragraphs (10) or (11) of regulation 17 and “appointment” means an appointment under that regulation.

2. An appointment must be in writing and—

- (a) may relate to any particular appeal or matter specified in the appointment or to appeals or matters of a description so specified;
- (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment;
- (c) may, by notice in writing given to the appointed person, be revoked at any time by the Scottish Ministers in respect of any appeal or matter which has not been determined by the appointed person before that time; and
- (d) shall confirm whether the appointed person is a reporter or a delegated person.

3.—(1) The provisions of this paragraph shall apply to an appeal which falls to be determined by a delegated person.

(2) Where a delegated person holds an inquiry, an assessor may be appointed by the Scottish Ministers to sit with the appointed person at the inquiry and advise on any matters arising, notwithstanding that the delegated person is to determine the appeal or matter.

(3) Subject to regulation 17(13), the expenses of an inquiry held by a delegated person under these Regulations shall be met by the Scottish Ministers.

4.—(1) Where under paragraph 2(c) the appointment of the appointed person is revoked in respect of any appeal or matter, the Scottish Ministers shall, unless they propose to determine the appeal or matter themselves, appoint another person under regulation 17(10) to determine the appeal or matter instead.

(2) Where such a new appointment is made, the consideration of the appeal or matter, or any inquiry in connection with it, shall be begun afresh.

(3) Nothing in sub-paragraph (2) shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

5.—(1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the Scottish Ministers.

(2) Sub-paragraph (1) shall not apply—

- (a) for the purposes of so much of any contract made between the Scottish Ministers and the appointed person as relates to the exercise of the function; or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.