

SCHEDULE 6

Regulation 31(14)

Appeals to the appropriate authority

Interpretation

1. In this Schedule—

“appeal” means an appeal to the appropriate authority;

“appointed person” means the person appointed under paragraph 5; and

“determination” includes the reasons for the determination.

Making an appeal

2.—(1) A person making an appeal must—

(a) send the appropriate authority written notice of the appeal and the documents specified in sub-paragraph (2); and

(b) at the same time send the regulator copies of the notice and documents.

(2) The documents are—

(a) a statement of the grounds of appeal;

(b) a copy of any relevant application;

(c) a copy of any relevant environmental permit;

(d) a copy of any relevant correspondence between the appellant and the regulator;

(e) a copy of any decision or notice which is the subject matter of the appeal; and

(f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be dealt with by way of written representations.

(3) An appellant may withdraw an appeal by notifying the appropriate authority in writing and must send a copy of that notification to the regulator.

Time limit for making an appeal

3.—(1) A notice of appeal must be given—

(a) in relation to an appeal against a revocation notice, before the revocation notice takes effect;

(b) in relation to the withdrawal of a duly-made application under paragraph 4(2) of Part 1 of Schedule 5, not later than 15 working days after the date of the further notice served under that paragraph;

(c) in relation to an enforcement notice, a regulator-initiated variation, suspension notice, mining waste facility closure notice or landfill closure notice, not later than 2 months after the date of the variation or notice;

(d) in relation to a prohibition notice, not later than 21 days after the date of the notice; or

(e) in any other case, not later than 6 months after the date of the decision or deemed decision.

(2) The appropriate authority may in a particular case allow notice of appeal to be given after the periods mentioned in sub-paragraph (1)(b) to (e) have expired.

Notice to affected and interested persons

4.—(1) The regulator must, within 10 working days after receipt of a copy of a notice of appeal, give notice of it to any person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, the subject matter of the appeal.

(2) A notice must include—

- (a) a description of the subject matter of the appeal; and
- (b) a statement that representations in writing may be made to the appropriate authority within a period of 15 working days after the date of the notice.

(3) The regulator must notify the appropriate authority of the persons to whom, and the date on which, such a notice was sent, within 10 working days after sending it.

(4) The regulator must give notice of the withdrawal of an appeal to every person given such a notice.

Hearing before an appointed person

5.—(1) Before determining an appeal the appropriate authority may give the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by the appropriate authority, and must do so in a case where a request is duly made by the appellant or the regulator to be so heard.

(2) If the appointed person so decides, a hearing may be held wholly or to any extent in private.

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

- (a) the appellant;
- (b) the regulator; and
- (c) a person who has made representations to the regulator in respect of the subject matter of the appeal within the period mentioned in paragraph 4(2)(b).

(4) The appointed person may permit other persons to be heard and such permission must not be unreasonably withheld.

(5) After the hearing, the appointed person must make a report in writing to the appropriate authority which must include the appointed person's—

- (a) conclusions; and
- (b) recommendations or reasons for not making recommendations.

(6) Subsections (2) to (5) of section 250 of the Local Government Act 1972⁽¹⁾ apply to hearings held under this paragraph by an appointed person as they apply to inquiries caused to be held under that section by a Minister with the following modifications—

- (a) the substitution in subsection (2) for the reference to the person appointed to hold the inquiry with a reference to the appointed person;
- (b) the substitution in subsection (4) for the references to the Minister causing the inquiry to be held with references to the appropriate authority;
- (c) the substitution of the reference in that subsection to a local authority with a reference to the regulator;
- (d) the substitution in subsection (5) for the reference to the Minister causing the inquiry to be held with a reference to the appropriate authority.

(1) 1972 c. 70. Section 250 was amended by the Criminal Justice Act 1982, c. 48, section 46; the Statute Law (Repeals) Act 1989, c. 43; and the Housing and Planning Act 1986, c. 63, section 49(2) and Schedule 12.

Notice of determination of an appeal

6.—(1) The appropriate authority must give notice to the appellant of its determination and provide the appellant with a copy of the report mentioned in paragraph 5(5).

(2) At the same time the appropriate authority must send—

- (a) a copy of the documents mentioned in sub-paragraph (1) to the regulator; and
- (b) a copy of its determination to any person who made representations in respect of the subject matter of the appeal to the authority, or at any hearing.

Procedure following the quashing of a determination of an appropriate authority

7.—(1) If a determination is quashed in proceedings before a court, the appropriate authority—

- (a) must send to the persons notified of its determination under paragraph 6 a statement of the matters in relation to which further representations are invited;
- (b) must give those persons the opportunity of making written representations in respect of those matters within 20 working days after the date of the statement; and
- (c) may cause a hearing to be held or reopened.

(2) If a hearing is held or reopened under sub-paragraph (1)(c), paragraphs 5(2) to 5(6) apply as they apply to a hearing held under paragraph 5(1).

(3) Paragraph 6 applies to the re-determination of an appeal as it applies to the determination of that appeal.