

## SCHEDULE 2

Regulation 28

### APPEALS (OTHER THAN APPEALS TO WHICH SCHEDULE 4 APPLIES)

1.—(1) A person who wishes to appeal to the appeal body under regulation 26 or 27 shall give to the appeal body written notice of the appeal together with the documents specified in sub-paragraph (2) and shall at the same time send to the regulator a copy of that notice together with copies of the documents specified in sub-paragraph (2)(a) and (f).

(2) The documents mentioned in sub-paragraph (1) are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant greenhouse gas emissions permit;
- (d) a copy of any relevant correspondence between the appellant and—
  - (i) in the case of an appeal under regulation 26, the regulator;
  - (ii) in the case of an appeal under regulation 27(1) or (2), the appropriate authority;
  - (iii) in the case of an appeal under regulation 27(3), the responsible authority; or
  - (iv) in the case of an appeal under regulation 27(4), the Secretary of State;
- (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 disposed of on the basis of written representations.

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

2.—(1) Subject to sub-paragraph (2), notice of appeal in accordance with paragraph 1 is to be given—

- (a) in the case of an appeal under regulation 26(1)(a) to (e), before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
- (b) in the case of an appeal under regulation 26(2) against a revocation notice, before the date on which the revocation takes effect;
- (c) in the case of an appeal under regulation 26(2) against a variation notice or an enforcement notice, or of an appeal under regulation 27(1), before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
- (d) in the case of an appeal under regulation 26(1)(f) against a determination of reportable emissions, before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
- (e) in the case of an appeal under regulation 27(2) or 27(4), before the expiry of the period of 2 months beginning with the date of the decision which is the subject matter of the appeal;
- (f) in the case of an appeal under regulation 27(3), before the expiry of the period of 2 months beginning with the date of service of the certificate which is the subject matter of the appeal.

(2) The appeal body may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in sub-paragraph (1)(a) or (c).

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

3.—(1) In the case of an appeal under regulation 26, the regulator shall, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to any person who appears to the regulator to have a particular interest in the subject matter of the appeal.

(2) In the case of an appeal under regulation 27, the appeal body shall, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to any person who appears to the appeal body to have a particular interest in the subject matter of the appeal.

(3) A notice under sub-paragraph (1) or (2) shall—

- (a) state that notice of appeal has been given;
- (b) state the name of the appellant and the location of the installation concerned;
- (c) describe the application or greenhouse gas emissions permit to which the appeal relates;
- (d) state that representations with respect to the appeal may be made to the appeal body in writing by any recipient of the notice within a period of 21 days beginning with the date of the notice and that copies of any representations so made will be furnished to the appellant and to the regulator; and
- (e) state that if a hearing is to be held wholly or partly in public, a person mentioned in sub-paragraph (1) or (2) who makes representations with respect to the appeal and any person mentioned in sub-paragraph (1) will be notified of the date of the hearing.

(4) The regulator shall, within 14 days of sending a notice under sub-paragraph (1), notify the appeal body of the persons to whom and the date on which the notice was sent.

(5) In the event of an appeal under regulation 26 being withdrawn, the regulator shall give notice of the withdrawal to every person to whom notice was given under sub-paragraph (1).

(6) In the event of an appeal under regulation 27 being withdrawn, the appeal body shall give notice of the withdrawal to every person to whom notice was given under sub-paragraph (2).

4.—(1) Before determining an appeal under regulation 26, the appeal body may afford the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by it (the “person holding the hearing”) and it shall do so in any case where a request is duly made by the appellant or the regulator to be so heard.

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

(3) Where the appeal body causes a hearing to be held under sub-paragraph (1) it shall give the appellant and the regulator 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) In the case of a hearing which is to be held wholly or partly in public, the appeal body shall, at least 21 days before the date fixed for the holding of the hearing—

- (a) publish a copy of the notice mentioned in sub-paragraph (3) in a newspaper circulating in the locality in which the installation is operated; and
- (b) serve a copy of that notice on every person mentioned in paragraph 3(1) who has made representations in writing to the appeal body.

(5) The appeal body 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 appeal body 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 him to be reasonable.

(7) The persons entitled to be heard at a hearing are the appellant and the regulator.

(8) Nothing in sub-paragraph (7) shall prevent the person holding the hearing 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 person holding the hearing shall make a report in writing to the appeal body which shall include his conclusions and his recommendations or his reasons for not making any recommendation.

(10) Paragraph 4(5) and (6) of Schedule 3 shall apply to hearings held under this paragraph as if references to the appointed person in those paragraphs were references to the person holding the hearing under this paragraph.

**5.—**(1) Where an appeal under regulation 26 is to be disposed of on the basis of written representations, the regulator shall submit any written representations to the appeal body not later than 28 days after receiving a copy of the documents mentioned in paragraph 1(2)(a) and (f).

(2) The appellant shall make any further representations by way of reply to any representations from the regulator not later than 17 days after the date of submission of those representations by the regulator.

(3) Any representations made by the appellant or the regulator shall bear the date on which they are submitted to the appeal body.

(4) When the regulator or the appellant submits any representations to the appeal body they shall at the same time send a copy of them to the other party.

(5) The appeal body shall send to the appellant and the regulator a copy of any representations made to it by the persons mentioned in paragraph 3(1) and shall allow the appellant and the regulator a period of not less than 14 days in which to make representations on them.

(6) The appeal body may in a particular case—

- (a) set later time limits than those mentioned in this paragraph;
- (b) require exchanges of representations between the parties in addition to those mentioned in paragraphs (1) and (2).

**6.—**(1) The appeal body shall give notice to the appellant of its determination of the appeal and shall provide him with a copy of any report mentioned in paragraph 4(9).

(2) The appeal body shall at the same time send—

- (a) a copy of the documents mentioned in sub-paragraph (1) to the regulator; and
- (b) a copy of its determination of the appeal to any person mentioned in paragraph 3(1) who made representations to the appeal body and, if a hearing was held, to any other person who made representations in relation to the appeal at the hearing.

**7.** Where a determination of the appeal body on an appeal is quashed in proceedings before any court, the appeal body—

- (a) shall send to the persons notified of its determination under paragraph 6 a statement of the matters with respect to which further representations are invited for the purposes of its further consideration of the appeal;
- (b) shall afford to those persons the opportunity of making, within 28 days of the date of the statement, written representations in respect of those matters; and
- (c) may, as it thinks fit, cause a hearing to be held or reopened and, if it does so, paragraphs 4(2) to (10) shall apply to the hearing or the reopened hearing as they apply to a hearing held under paragraph 4(1),

and paragraph 6 shall apply to the re-determination of the appeal as it applies to the determination of an appeal.