

SCHEDULE 5

Regulations 30(10) and 31(9)

Delegation of appellate functions

1. In this Schedule “appointed person” (“*person penodedig*”) means a person appointed under regulation 30(10) or 31(9) and “appointment” (“*penodiad*”) means an appointment under either of those regulations.

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 specified description;
- (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 any conditions specified in the appointment; and
- (c) may, by notice given to the appointed person, be revoked at any time by the Welsh Ministers in respect of any appeal or matter which has not been determined by the appointed person before that time.

3. Subject to the provisions of this Schedule, an appointed person has, in relation to any appeal or matter to which his appointment relates, the same powers and duties as the Welsh Ministers has under regulation 30(6), or regulation 31(8), (10), (12) and (13) as the case may be.

4.—(1) The provisions of this paragraph apply to an appeal under regulation 30 or 31 which falls to be determined by an appointed person and, in the case of an appeal under regulation 31, apply instead of regulation 31(7).

(2) If the appellant or the Welsh Ministers inform the appointed person that they wish to appear before and be heard by him or her, the appointed person must give them an opportunity to do so.

(3) Even if the appellant or the Welsh Ministers has not asked to appear and be heard, the appointed person—

- (a) may—
 - (i) in the case of an appeal under regulation 30, hold a hearing in connection with the appeal or matter, and
 - (ii) in the case of an appeal under regulation 31, hold a local inquiry or other hearing in connection with the appeal or matter; and
- (b) must, in the case of an appeal under regulation 31, hold a local inquiry in connection with the appeal or matter if the Welsh Ministers direct.

(4) The appointed person must notify his or her decision to hold a hearing or a local inquiry (as the case may be) to the appellant, the Welsh Ministers and to any persons who notified the Welsh Ministers that they wish to make representations under regulation 31(6).

(5) If an appointed person holds a local inquiry or other hearing under this Schedule, the Welsh Ministers may appoint an assessor to sit with the appointed person and advise him or her on any matters arising, notwithstanding that the appointed person is to determine the matter or appeal.

(6) Subject to regulation 31(10), the costs of the hearing or local inquiry held under this Schedule must be met by the Welsh Ministers.

5.—(1) If the appointment of the appointed person is revoked under paragraph 2(c) in respect of any appeal or matter, the Welsh Ministers must, unless they propose to determine the matter themselves, appoint another person under regulation 30(10) or 31(9) to determine the appeal or matter instead.

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

(2) If a new appointment is made, the consideration of the appeal or matter, or any local inquiry or other hearing in connection with it, must begin afresh.

(3) Nothing in sub-paragraph (2) requires any person to be given an opportunity to make fresh representations or to modify or withdraw any representations already made.

6.—(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 is to be treated for all purposes as done or omitted to be done by the Welsh Ministers.

(2) Sub-paragraph (1) does not apply—

- (a) for the purposes of so much of any contract made between the Welsh 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.