

SCHEDULE 5

Regulation 30(6)

Delegation of appellate functions

1. In this Schedule “appointed person” (“*person penodedig*”) means a person appointed under regulation 30(6) and “appointment” (“*penodiad*”) 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 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. An appointed person has, in relation to any appeal or matter which an appointment relates, the same powers or duties as the Welsh Ministers have under regulations 30 and 31, as the case may be.

4. If an appointed person holds an oral hearing or a local inquiry in accordance with this Schedule, the Welsh Ministers may appoint an assessor to sit the appointed person to advise them on any matter arising, notwithstanding that the appointed person is to determine the appeal.

5. The costs of an oral hearing or local inquiry held under this Schedule must be met by the Welsh Ministers, subject to regulation 31(11).

6. After the conclusion of an oral hearing or local inquiry, or having considered written representations, the appointed person must, unless he or she has been appointed to determine the appeal, make a report to the Welsh Ministers which must include—

- (a) a conclusion; and
- (b) recommendations, or reasons why no recommendations are made.

7. If the Welsh Ministers are minded to disagree with the recommendation made in the report because they—

- (a) differ from the person making the report on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by that person; or
- (b) takes into consideration new evidence or a new matter of fact,

they must not come to a decision without first giving every person who appeared at the hearing or local inquiry an opportunity to make representations within a reasonable time specified by them.

8.—(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(6) to determine the matter instead.

(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.

9.—(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.

Status: This is the original version (as it was originally made).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

- (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.