

## SCHEDULE 5

### REGISTRATION OF BROKERS AND DEALERS

#### Appeals

6.—(1) Where a person has applied to the waste regulation authority to be registered as a broker of or dealer in controlled waste in accordance with paragraph 3, that person may appeal to the Scottish Ministers if—

- (a) the application is refused; or
- (b) the relevant period from the making of the application has expired without the applicant having been registered.

(2) A person whose registration as a broker of or dealer in controlled waste has been revoked may appeal against the revocation to the Scottish Ministers.

(3) Notice of an appeal to the Scottish Ministers under sub-paragraph (1) or (2) must be given by the appellant to the Scottish Ministers.

(4) The notice of appeal must be accompanied by the following—

- (a) a statement of the grounds of appeal;
- (b) in the case of an appeal under sub-paragraph (1), a copy of the relevant application;
- (c) in the case of an appeal under sub-paragraph (2), a copy of the appellant's entry in the register;
- (d) a copy of any relevant correspondence between the appellant and the waste regulation authority;
- (e) a copy of any notice given to the appellant under paragraph 3(12) or 5(2);
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(5) The appellant must at the same time as giving notice of appeal to the Scottish Ministers serve on the waste regulation authority a copy of the notice and a copy of the documents referred to in sub-paragraph (4)(a) to (f).

(6) Notice of appeal is to be given before the expiry of the period of 28 days beginning with—

- (a) in the case of an appeal under sub-paragraph (1)(a), the date on which the appellant is given notice by the waste regulation authority that the application has been refused;
- (b) in the case of an appeal under sub-paragraph (1)(b), the date on which the relevant period from the making of the application expired without the applicant having been registered; or
- (c) in the case of an appeal under sub-paragraph (2), the date on which the appellant is given notice by the waste regulation authority that the appellant's registration as a broker of or dealer in controlled waste has been revoked,

or before such later date as the Scottish Ministers may at any time allow.

(7) If either party to an appeal requests a hearing or the Scottish Ministers so decide, the appeal must be or continue in the form of a hearing before a person appointed for the purpose by the Scottish Ministers.

(8) The person holding such a hearing must, after its conclusion, make a written report to the Scottish Ministers which must include that person's conclusions and recommendations or reasons for not making any recommendations.

(9) On an appeal under this paragraph the Scottish Ministers may, as they think fit, either dismiss the appeal or give the waste regulation authority a direction to register the appellant or, as the case may be, to cancel the revocation.

(10) The Scottish Ministers must—

(a) notify the appellant in writing of their determination of the appeal and of their reasons for it and, if a hearing is held, must also provide the appellant with a copy of the report of the person who conducted the hearing; and

(b) at the same time send a copy of those documents to the waste regulation authority.

(11) Where on an appeal made by virtue of sub-paragraph (1)(b) the Scottish Ministers dismiss an appeal, they must direct the waste regulation authority not to register the appellant.

(12) It is the duty of the waste regulation authority to comply with any direction under this paragraph.

(13) This paragraph is subject to section 114 of the 1995 Act (delegation or reference of appeals).