
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 582

**The Environmental Impact Assessment
(Agriculture) (Scotland) Regulations 2006**

Determination of appeals by an inquiry

19.—(1) This regulation shall apply to an appeal which is to be determined by an inquiry.

(2) Within 42 days of receiving notice that the appeal is to be determined by an inquiry, the appellant shall serve on the Scottish Ministers a statement which contains full particulars of the case of the appellant and copies of any documents to which the appellant wishes to refer at the inquiry and the Scottish Ministers shall send copies of the statement and documents to the interested persons.

(3) Any of the interested persons who wish to be heard at the inquiry shall, within 28 days of receipt of the appellant's statement pursuant to paragraph (2), notify the Scottish Ministers of the wish to appear and the Scottish Ministers may require any person who has so notified them to serve a statement containing the particulars of the case of that person together with copies of any documents to which reference is intended to be made at the inquiry (other than those to which the appellant has expressed a wish to refer) within 28 days of being so required and the Scottish Ministers shall send copies of such statements to the appellant and to the other interested persons.

(4) The Scottish Ministers may by notice require the appellant or any other person who has provided a statement in accordance with paragraph (3) to provide them with such further information about the matters contained in the statement as they may specify and they shall send a copy of such information to the appellant or to the other interested persons as the case may be.

(5) The Scottish Ministers shall give the appellant and the interested persons notice of at least 42 days of the date, time and place fixed for the inquiry and, where relevant, of the name of the reporter appointed to conduct the inquiry or the delegated person appointed to determine the appeal and shall give, not less than 21 days before the date fixed for the inquiry, such notice to the public as they may think fit.

(6) The Scottish Ministers may vary the time or place for the holding of the inquiry and shall give such notice of any such variation as they may think fit and before an inquiry takes place the Scottish Ministers shall make all of the documents submitted by the appellant and the interested persons in respect of the inquiry available for inspection by any person who so requests.

(7) The persons entitled to appear at an inquiry are—

- (a) the appellant;
- (b) any consultation body with an interest in the subject matter of the inquiry;
- (c) the interested persons; and
- (d) any other person whom the Scottish Ministers shall permit to appear.

(8) A person entitled to appear at an inquiry who proposes to give, or call another person to give, evidence at it by reading a precognition shall send a copy of the precognition to the Scottish Ministers together with a written summary not less than 21 days before the date fixed for the inquiry and the Scottish Ministers shall send copies of the precognition and summary to the appellant or to the other interested persons as the case may be.

(9) If a reporter has been appointed to conduct the inquiry, after the conclusion of the inquiry, the reporter shall make a report to the Scottish Ministers which shall include the conclusions and recommendations of the reporter or the reporter's reasons for not making any recommendations.

(10) If the Scottish Ministers differ from the report of the reporter made in accordance with paragraph (9) on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the reporter, or if the Scottish Ministers are minded to take into consideration any new evidence or new matter of fact and are for that reason disposed to disagree with a recommendation made by the reporter, they shall not come to a decision without first affording to any persons who appeared at the inquiry the opportunity of making representations to them within such reasonable time as they shall specify.

(11) The Scottish Ministers or the delegated person, as the case may be, shall notify the decision and the reasons for it, and shall send a copy of any report made in accordance with paragraph (9) to the appellant, to the interested persons and to any other persons who appeared at the inquiry and who asked to be notified of the decision.

(12) When the decision under paragraph (11) is notified, the Scottish Ministers shall indicate to all persons notified thereunder, the existence of the appeal provisions at regulation 20.

(13) In this regulation, references to the Scottish Ministers shall, where the context so requires, include references to the delegated person or the reporter.