
STATUTORY INSTRUMENTS

1974 No. 2068

**The Health and Safety Licensing Appeals
(Hearings Procedure) (Scotland) Rules 1974**

Procedure after hearing where the appointed person is to report to the Secretary of State

11.—(1) After the close of the hearing, unless the Secretary of State has directed the appointed person to determine the appeal on his behalf—

- (a) the appointed person shall prepare the first part of his report comprising a summary of the evidence led at the hearing together with his findings of fact, and—
 - (i) shall provide a copy of the first part of his report to the parties and to any person who appeared at the hearing, if so required by any of them;
 - (ii) shall consider any comments received by him from either party or from any such person within 14 days from the furnishing of the first part of his report;
 - (iii) may, after consulting the other party or persons, amend the first part of his report, so however that he shall not, except with the consent of both parties and all such persons, introduce into his report any matter that had not been raised at the hearing;
- (b) the appointed person shall thereafter prepare the second part of his report and shall include therein his recommendations if any or his reason for not making any recommendation; and
- (c) the appointed person shall then send his report to the Secretary of State.

(2) Where the Secretary of State on receipt of the appointed person's report made under paragraph (1) of this rule—

- (a) differs from the appointed person on a finding of fact, or
- (b) after the close of the hearing takes into consideration any new evidence (including expert opinion on a matter of fact) or any new issue of fact (not being a matter of government policy or a matter affecting the safety of the State) which was not raised at the hearing,

and by reason thereof is disposed to disagree with a recommendation made by the appointed person, he shall not come to a decision which is at variance with any such recommendation without first notifying the parties of the terms of the recommendation, of his disagreement with it and of the reasons (other than reasons of which the disclosure might in his opinion affect the safety of the State) for his disagreement with it and affording them an opportunity of making representations in writing within 21 days or (if the Secretary of State has taken into consideration any new evidence or any new issue of fact, not being a matter of government policy or a matter affecting the safety of the State) of asking within 21 days for the re-opening of the hearing.

(3) The Secretary of State may in any case, if he thinks fit, cause the hearing to be re-opened, and shall cause it to be re-opened if asked to do so in accordance with the last foregoing paragraph; and, if the hearing is re-opened, paragraphs (1) and (3) of rule 4 shall apply as they applied to the original hearing with the substitution in paragraph (1) of “28” for “42”.