

## SCHEDULE 5

Regulations 21 and 22(a)(iv)

### CONSIDERATION OF REPRESENTATIONS FROM THE PUBLIC

1.—(1) In relation to each representation made pursuant to the statement referred to in regulation 16(2)(g), the appropriate authority must consider whether or not the representation is capable of being dealt with in accordance with this Schedule.

(2) If the appropriate authority concludes that the representation is not capable of being dealt with in accordance with this Schedule—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

2.—(1) If the appropriate authority concludes in accordance with paragraph 1(1) that the representation is capable of being dealt with in accordance with this Schedule, it must consider whether or not the representation is relevant to the EIA consent decision.

(2) If the appropriate authority concludes that the representation is not relevant to the EIA consent decision, it must consider whether it is relevant in some other way to the project in the course of which the regulated activity is to be carried out.

(3) If the appropriate authority concludes that the representation is not relevant to that project in any other way—

- (a) it need not have any further regard to the representation; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

(4) If the appropriate authority concludes that the representation is relevant in some other way to the project in the course of which the regulated activity is to be carried out—

- (a) it must copy the representation to the regulator and any consenting authorities in so far as the appropriate authority regards the representation as relevant to any of their functions that are relevant to compliance with the EIA Directive;
- (b) it need not have any further regard to the representation; and
- (c) the remaining provisions of this Schedule do not apply to the representation.

3.—(1) If the appropriate authority concludes in accordance with paragraph 2(1) that the representation is relevant to the regulated activity, it must consider whether the representation is capable of being addressed by an arrangement made between it, the applicant and the maker of the representation.

(2) If the appropriate authority concludes that the representation is capable of being addressed by means of such an arrangement, it may invite the applicant and the maker of the representation to enter into discussions with it and each other with a view to making the arrangement.

(3) If an arrangement is made—

- (a) the appropriate authority must have regard to the arrangement when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

4.—(1) If either—

- (a) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is capable of being satisfied by an arrangement made between it, the

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

applicant and the maker of the representation but no such arrangement is made within a reasonable period, or

- (b) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is not capable of being satisfied by an arrangement made between it, the applicant and the maker of the representation,

the appropriate authority must consider whether the representation gives rise to a dispute that calls for resolution of a question of fact in order to enable it to make its EIA consent decision.

(2) If the appropriate authority concludes that the representation gives rise to such a dispute, it may, if it considers that it is appropriate to do so—

- (a) instigate a local inquiry; or
- (b) appoint a person whom it considers expert in the subject-matter of the dispute to report to it on the question of fact.

(3) If the appropriate authority concludes that the representation does not give rise to such a dispute or if it does not think that it is appropriate to instigate a local inquiry or appoint a person to report to it—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision;
- (b) the remaining provisions of this Schedule do not apply to the representation.

**5.—**(1) If the appropriate authority instigates a local inquiry in accordance with paragraph 4(2) (a)—

- (a) it must give notice of that inquiry in such manner as it thinks fit; and
- (b) all persons interested are permitted to attend, and be heard at, the inquiry.

(2) The appropriate authority must not reach its EIA consent decision until the inquiry has been completed.

(3) The appropriate authority must have regard to the outcome of the inquiry when reaching its EIA consent decision.

**6.—**(1) Subsections (2) to (5) of section 250 (power to direct inquiries) of the Local Government Act 1972<sup>(1)</sup> apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in England or Wales as they apply in relation to an inquiry held under that section.

(2) Schedule A1 (provisions applicable to inquiries and investigations) to the Interpretation Act (Northern Ireland) 1954<sup>(2)</sup> applies in relation to an inquiry instigated under paragraph 4(2)(a) and held in Northern Ireland as it applies to an inquiry held under an enactment passed or made as mentioned in section 23 (inquiries and investigations) of that Act.

(3) The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997<sup>(3)</sup> apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in Scotland as they apply to an inquiry held under those Rules.

**7.—**(1) If the appropriate authority appoints a person to report to it in accordance with paragraph 4(2)(b), it must—

- (a) notify the applicant and the maker of the representation, and the regulator (if the appropriate authority is not also the regulator)—
  - (i) that it has so done; and

---

(1) 1972 c.70.  
(2) 1954 c.33 (N.I.).  
(3) S.I. 1997/796 (S.75).

- (ii) its reasons for doing so;
  - (b) send details of the appointed person and of the question of fact to the applicant and the maker of the representation and to the regulator (if the appropriate authority is not also the regulator).
- (2) The appointed person must provide such opportunity for each of the applicant, the maker of the representation, the appropriate authority and the regulator (if the appropriate authority is not also the regulator) to address him orally or in writing, or both, as he considers expedient for the purposes of making his report.
- (3) The appropriate authority must not reach its EIA consent decision until either the appointed person has made his report or a reasonable period has expired.
- (4) The appointed person's report to the appropriate authority should contain his findings of fact on the subject-matter of the dispute and should be sent to the appropriate authority and the regulator (if the appropriate authority is not also the regulator) and copied to the applicant and the maker of the representation.
- (5) When reaching its EIA consent decision, the appropriate authority must—
  - (a) have regard to the appointed person's report; and
  - (b) have such regard as the appropriate authority considers appropriate in all the circumstances to any representations made to the appointed person.