

SCHEDULE 4

Regulation 18(7)

APPEALS AGAINST [F¹NOTIFIED][F¹APPROVED] BODY DECISIONS

F1 Word in Sch. 4 heading substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, Sch. 12 para. 33(a) (with Sch. 12 para. 22) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

1. Where a manufacturer or authorised representative (“the appellant”) is aggrieved by one of the kinds of decision of [F²an approved] body specified in regulation 18(7) (“the decision”), the grounds on which such an appeal may be made are that, in reaching the decision, the [F³approved] body (“the respondent”) made a material error of law or fact.

2. Any appeal made under paragraph 1 (“an appeal”) shall be—
- made to the Secretary of State; and
 - heard by a person appointed by the Secretary of State, on such terms as the Secretary of State sees fit, to hear one or more appeals (an “Appeal Officer”).

In this Schedule, “the Appeal Officer” means the person who hears a particular appeal.

3. No person shall be appointed as an Appeal Officer unless the Secretary of State considers that that person has sufficient knowledge and experience, or sufficiently ready access to independent sources of technical or legal expertise, to be able to reach independent, impartial and properly informed decisions on the appeals which that person is appointed to hear.

4. An appeal must be made by giving a notice of appeal in writing to the Secretary of State so as to be received by the Secretary of State within one month of the date upon which the decision was notified to the appellant.

5. On receiving the notice of appeal, the Secretary of State must—
- send a copy of the notice, endorsed with the date of receipt, to the respondent;
 - send an acknowledgement of its receipt to the appellant;
 - forward the notice of appeal, endorsed with the date of receipt, to the Appeal Officer; and
 - notify the appellant and the respondent of the arrangements for communicating with the Appeal Officer.

6. The notice of appeal must—
- state the name and address of the appellant and an address for service;
 - concisely state the grounds for the appeal and the arguments supporting each ground;
 - contain a schedule listing any documents annexed to it;
 - be accompanied by a copy of the decision and, as far as practicable, every other document on which the appellant relies;
 - be signed and dated by the appellant, or on the appellant's behalf by the appellant's duly authorised officer or legal representative.

7. The respondent may make a written response to the notice of appeal. Any such written response must be sent to the Appeal Officer so as to be received by the Appeal Officer within one month of the date on which the Secretary of State received the notice of appeal or such further time as the Appeal Officer may allow.

8. The Appeal Officer must send a copy of the written response to the appellant.

9. The Appeal Officer may—

Changes to legislation: *There are currently no known outstanding effects for the The Supply of Machinery (Safety) Regulations 2008, SCHEDULE 4. (See end of Document for details)*

- (a) give the appellant and the respondent the opportunity to make further written or oral representations; and
- (b) specify the time and manner in which such further representations are to be made.

10. The Appeal Officer may—

- (a) make enquiries of any person;
- (b) receive representations from any person;
- (c) hold any meeting or hearing; and
- (d) subject to this Schedule, follow such practice and procedure,

as the Appeal Officer thinks fit, having regard to the just, expeditious and economical conduct of the appeal.

11. The Appeal Officer may specify the time and place at which any meeting or hearing is to be held.

12. In determining an appeal, the Appeal Officer must—

- (a) dismiss the appeal;
- (b) allow the appeal; or
- (c) remit the decision to the respondent.

13. Where a decision is remitted the respondent must reconsider it in accordance with any rulings of law and findings of fact made by the Appeal Officer.

14. The Appeal Officer may dismiss an appeal at any stage if satisfied that—

- (a) the notice of appeal discloses no valid ground of appeal;
- (b) the notice of appeal fails to comply with the requirements of paragraph 6; or
- (c) the appellant is not entitled to bring the appeal.

15. If satisfied that the appeal was not brought within the time limit imposed by paragraph 4, the Appeal Officer must dismiss an appeal, unless satisfied that the circumstances are exceptional.

16. The Appeal Officer may dismiss an appeal at any stage at the request of the appellant.

17. The Appeal Officer must give the appellant and the respondent reasons for any decision to—

- (a) dismiss an appeal;
- (b) allow an appeal; or
- (c) remit a decision to the respondent.

Changes to legislation:

There are currently no known outstanding effects for the The Supply of Machinery (Safety) Regulations 2008, SCHEDULE 4.