
STATUTORY INSTRUMENTS

2013 No. 1119

The CRC Energy Efficiency Scheme Order 2013

PART 14

Appeals, service of notices and national security

Appeals: general

- 87.** The following appeals may be made to the appeal body under this Order—
- (a) an appeal by a public body or undertaking notified of a determination referred to in article 57(1), against that determination;
 - (b) an appeal by a person served with an enforcement notice, against that notice;
 - (c) an appeal by a public body or undertaking given notice that they are liable to a civil penalty, against the imposition of that penalty.

Grounds of appeal

- 88.** The grounds on which a determination, notice or penalty may be appealed are—
- (a) that it was based on an error of fact;
 - (b) that it was wrong in law; or
 - (c) that it was unreasonable.

Appeal body

- 89.—**(1) In the case of an appeal against a determination, notice or penalty made or given by—
- (a) the Secretary of State, the appeal body is the First-tier Tribunal;
 - (b) the Environment Agency, the appeal body is the First-tier Tribunal;
 - (c) the Natural Resources Body for Wales, the appeal body is the First-tier Tribunal;
 - (d) the Scottish Environment Protection Agency, the appeal body is the Scottish Ministers;
 - (e) the chief inspector, the appeal body is the Planning Appeals Commission.
- (2) Paragraph (3) applies where the appellant is or includes—
- (a) the Natural Resources Body for Wales;
 - (b) the Scottish Environment Protection Agency.
- (3) Where this paragraph applies, the appeal body is an independent person which the following appoint in writing—
- (a) the Welsh Ministers, where the appellant is or includes the Natural Resources Body for Wales;
 - (b) the Scottish Ministers, where the appellant is or includes the Scottish Environment Protection Agency.

(4) Where the appellant is or includes the chief inspector, the appeal body is the Planning Appeals Commission.

(5) For the purposes of this article, “independent person” means a person who has no individual interest in the matter subject to the appeal and is independent of the parties to the appeal.

Effect of an appeal

90. The bringing of an appeal—

- (a) suspends an enforcement notice, financial penalty or publication taking effect;
- (b) does not suspend a determination referred to in article 57(1) or a civil penalty not described in sub-paragraph (a) taking effect.

Standard of proof

91.—(1) Paragraph (2) applies where an appeal is made to—

- (a) the Scottish Ministers;
- (b) the Planning Appeals Commission;
- (c) an independent person appointed under paragraph (3) of article 89.

(2) Where this paragraph applies, the standard of proof to be applied by the appeal body in respect of—

- (a) a breach of a provision of this Order; or
- (b) in respect of any determination by the administrator under this Order,

is proof on the balance on probabilities.

Determination of an appeal

92. The appeal body may—

- (a) in respect of a determination, enforcement notice or penalty—
 - (i) cancel or affirm it; and
 - (ii) if it affirms it, do so in its original form or with such modification as it sees fit;
- (b) instruct the administrator to do or not to do any thing which is within the power of the administrator.

Procedure for appeals

93. Schedule 7 (appeals procedure) has effect in relation to the making and determination of appeals under this Order by—

- (a) the Scottish Ministers;
- (b) the Planning Appeals Commission;
- (c) an independent person appointed under article 89(3).

Service of documents

94. Schedule 8 (service of documents) has effect.

National security

95. No provision of this Order requires the Crown to provide information to the administrator or to any other person where to do so would, in the opinion of the person who holds or controls the information, be contrary to the interests of national security.