

SCHEDULE 4

Regulation 48(5)

Appeals procedure

PART 1

Procedure for appeals against determinations made, and enforcement and penalty notices issued, by the Scottish Environment Protection Agency

1. This Part applies to appeals against determinations made, and enforcement and penalty notices issued, by the Scottish Environment Protection Agency.
2. The Scottish Ministers must appoint an independent person to hear appeals on behalf of the appeal body.
3. A person who wishes to appeal to the Scottish Ministers under regulation 48(1) must give them written notice of the appeal together with a statement of the grounds of appeal.
4. The Scottish Ministers must as soon as is reasonably practicable send a copy of that notice and statement to the Scottish Environment Protection Agency.
5. An appellant may withdraw an appeal by notifying the Scottish Ministers who must, as soon as is reasonably practicable, notify the Scottish Environment Protection Agency accordingly.
6. Notice of appeal in accordance with paragraph 3 is to be given before the expiry of the period of 28 [^{F1}days] (or where that period expires on a day other than a working day, by no later than the next working day) after the date of the determination, or the date of service of the enforcement notice or penalty notice (as the case may be).

Textual Amendments

- F1** Word in Sch. 4 para. 6 inserted (26.10.2015) by [The Energy Savings Opportunity Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/1731\)](#), regs. 1, 2(4)(a)

7. The standard of proof to be applied by the Scottish Ministers in determining an appeal is proof on the balance on probabilities.

PART 2

Procedure for appeals against determinations made, and enforcement and penalty notices issued, by the Chief Inspector

8. This Part applies to appeals against determinations made, and enforcement and penalty notices issued, by the Chief Inspector.
9. A person who wishes to appeal to the Planning Appeals Commission under regulation 48(1) must give them written notice of the appeal together with a statement of the grounds of appeal.
10. The Planning Appeals Commission must as soon as is reasonably practicable send a copy of that notice and statement to the Chief Inspector.
11. An appellant may withdraw an appeal by notifying the Planning Appeals Commission who must, as soon as is reasonably practicable, notify the Chief Inspector accordingly.

12. Notice of appeal in accordance with paragraph 9 is to be given before the expiry of the period of 28 ^{F2}...days (or where that period expires on a day other than a working day, by no later than the next working day) after the date of the determination, or the date of service of the enforcement notice or penalty notice (as the case may be).

Textual Amendments

F2 Word in Sch. 4 para. 12 omitted (26.10.2015) by virtue of [The Energy Savings Opportunity Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/1731\)](#), regs. 1, **2(4)(b)**

13. The [^{F3}Planning Appeals Commission] must determine the appeal and paragraphs (1) and (3) of Article 111 of the Planning (Northern Ireland) Order 1991 ^{M1} apply in relation to the determination of the appeal as they apply in relation to the determination of an appeal under that Order.

Textual Amendments

F3 Words in Sch. 4 para. 13 substituted (26.10.2015) by [The Energy Savings Opportunity Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/1731\)](#), regs. 1, **2(4)(c)**

Marginal Citations

M1 Article 111(1) is amended by [S.I. 2006/1252 \(N.I. 7\)](#) articles 1(3)(b) and 15(2), and by [S.R. 2006/222](#) article 2.

14. The Planning Appeals Commission must determine the process for determining appeals taking into account any requests of the appellant or the Chief Inspector.

15. An appeal under this Part must be accompanied by a fee and Article 127(2)(b) of the Planning (Northern Ireland) Order 1991 has effect as if the reference to an appeal under that Order included a reference to an appeal under these Regulations.

16. The standard of proof to be applied by the Planning Appeals Commission in determining an appeal is proof on the balance on probabilities.

Changes to legislation:

There are currently no known outstanding effects for the The Energy Savings Opportunity Scheme Regulations 2014, SCHEDULE 4.