
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 560

The Inquiries (Scotland) Rules 2007

Manner of proceedings etc.

Disclosure of potentially restricted evidence

11.—(1) In this rule—

- (a) “potentially restricted evidence” means any evidence or document which—
 - (i) is in the possession of the inquiry panel, or any member of the inquiry panel; and
 - (ii) is the subject of a relevant application which has not been determined or withdrawn; and
- (b) “relevant application” means an application made by any person that evidence or documents—
 - (i) are to be specified in a restriction notice under section 19(2)(a) of the Act (restriction notice given by the Minister on disclosure or publication of evidence or documents);
 - (ii) are to be specified in a restriction order under section 19(2)(b) of the Act (restriction order made by the chairman on disclosure or publication of evidence or documents); or
 - (iii) are to be withheld on grounds of public interest immunity,and which entails the withholding of evidence or documents from the public.

(2) Subject to paragraph (3), potentially restricted evidence is subject to the same restrictions as it would have been subject to if the relevant application had been granted.

(3) Where the conditions in paragraph (4) are satisfied, the chairman may disclose the potentially restricted evidence to a person who would not otherwise be permitted to see it.

(4) The conditions are that—

- (a) the chairman considers that disclosure to an individual is necessary for the determination of the relevant application; and
- (b) the chairman has afforded an opportunity to make representations about whether disclosure to that individual should be permitted, to—
 - (i) the person who has provided or produced the potentially restricted evidence to the inquiry panel; or
 - (ii) any other person making the relevant application.

(5) Any person who is shown potentially restricted evidence under paragraph (3) owes an obligation of confidence to the person who provided or produced that evidence to the inquiry.

(6) A breach of the obligation referred to in paragraph (5) is actionable by the person to whom the obligation is owed.