

SCHEDULE 2

Regulation 2

Inquiry Session Rules

Notice of inquiry session and specified matters

1.—(1) Where the appointed person has determined that an inquiry session is to be held the appointed person is to give written notice to that effect to—

- (a) the appellant;
- (b) Historic Environment Scotland;
- (c) any interested party who made representations in relation to specified matters; and
- (d) any person who the appointed person wishes to make further representations or to provide further information on specified matters at the inquiry session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the inquiry session.

(3) Only specified matters are to be considered at the inquiry session.

(4) A person given notice under paragraph (1) and who intends to appear at the inquiry session must within 14 days of date of such notice inform the appointed person in writing of that intention.

Appearances at inquiry session

2. The persons entitled to appear at the inquiry session are—

- (a) the appellant;
- (b) Historic Environment Scotland; and
- (c) any other person who, in a response to a procedure notice, has informed the appointed person of their intention to appear at the inquiry session in accordance with rule 1(4).

Date and notification of inquiry

3.—(1) The date, time and place for the holding of the inquiry session is to be fixed (and may subsequently be varied) by the appointed person.

(2) The appointed person is to give to those persons entitled to appear at the inquiry session such notice of the date, time and place fixed for the holding of the inquiry session (and of any subsequent variation thereof) as may appear to the appointed person to be reasonable in the circumstances.

(3) The appointed person may require Historic Environment Scotland to take one or more of the following steps—

- (a) not less than 14 days before the date fixed for the holding of the inquiry session, to publish—
 - (i) in one or more local newspapers circulating in the locality in which the land is situated; and
 - (ii) on a website,such notices of the inquiry session as the appointed person may direct; or
- (b) to serve notice of the inquiry session in such form and on such persons or classes of persons as the appointed person may specify.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Service of inquiry statements, documents and precognitions

4.—(1) Where required to do so by notice given by the appointed person, a person entitled to appear at the inquiry session must, by such date as is specified in the notice, send to—

- (a) the appointed person—
 - (i) an inquiry statement;
 - (ii) a copy of every document (or the relevant part of a document) on the list of such documents comprised in that inquiry statement; and
 - (iii) a precognition in respect of any evidence to be given to the inquiry session by a person included on the list of witnesses comprised in that inquiry statement; and
- (b) the appellant and Historic Environment Scotland and to such other persons entitled to appear at the inquiry session as the appointed person may specify in such notice—
 - (i) an inquiry statement; and
 - (ii) a copy of every document (or the relevant part of a document) and precognition sent to the appointed person under sub-paragraph (a)(ii) or (iii) and which is not already available for inspection under regulation 7, 16(4) or 22(2) or paragraph (2) of this rule.

(2) Historic Environment Scotland are, until such time as the appeal is determined, to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any inquiry statement, precognition or other document (or any part hereof) which, or a copy of which, has been sent to them in accordance with this rule.

(3) A precognition must not, unless the appointed person otherwise so agrees, contain more than 2000 words.

(4) Different dates and different persons may be specified for the purposes of paragraph (1).

(5) In this rule—

“inquiry statement” means, and is comprised of—

- (a) a written statement which contains particulars of the case relating to the specified matters which a person proposes to put forward to an inquiry session;
- (b) a list of documents (if any) which the person putting forward such case intends to refer to, rely on or put in evidence; and
- (c) a list of witnesses specifying the persons who are to give, or be called to give, evidence at the inquiry session, the matters in respect of which such persons are to give evidence and the relevant qualifications of such persons to do so; and

“precognition” means a written statement of the evidence which it is proposed that a witness will give to the inquiry session.

Procedure at inquiry session

5.—(1) Except as otherwise provided in these Inquiry Session Rules, the procedure at the inquiry session shall be as the appointed person determines.

(2) The appointed person is, having considered any submission by the persons entitled to appear at the inquiry session, to state at or before the commencement of the inquiry session the procedure which the appointed person proposes to adopt and in particular is to state—

- (a) the order in which the specified matters are to be considered at the inquiry session; and
- (b) the order in which the persons entitled to appear at the inquiry session are to be heard in relation to a specified matter (a different order may be chosen for different specified matters).

(3) Any person entitled to appear may do so on that person's own behalf or be represented by another person.

(4) Where there are two or more persons having a similar interest in the matter under inquiry, the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

(5) Subject to paragraph (6), any person entitled to appear at the inquiry session is entitled to call evidence and to cross-examine persons giving evidence and to make closing statements.

(6) The appointed person may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter,

which the appointed person considers to be irrelevant or repetitious.

(7) If any person entitled to appear at the inquiry session fails to do so, the appointed person may proceed with the inquiry session at the appointed person's discretion.

(8) The appointed person may from time to time adjourn the inquiry session and, if the date, time and place of the adjourned inquiry session are announced before the adjournment, no further notice is required, otherwise rule 3 applies as it applies to the variation of the date, time or place at which a inquiry session is to be held.