

## SCHEDULE 1

Regulation 2

### Hearing Session Rules

#### **Notice of hearing session and specified matters**

1.—(1) Where the appointed person has determined that a hearing session should 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 hearing session.

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

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

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

#### **Appearances at hearing session**

2. The persons entitled to appear at a hearing session are—

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

#### **Date and notification of hearing session**

3.—(1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the appointed person.

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

#### **Service of hearing statements and documents**

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

- (a) the appointed person—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list of such documents comprised in that hearing statement; and
- (b) the appellant and Historic Environment Scotland and to such other persons entitled to appear at the hearing session as the appointed person may specify in such notice—
  - (i) a hearing statement; and

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- (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list comprised in that hearing statement 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 hearing statement or other document (or any part thereof) which, or a copy of which, has been sent to them in accordance with this rule.
- (3) Any person who has served a hearing statement in accordance with this rule must—
  - (a) when required by notice in writing from the appointed person provide such further information about the matters contained in the statement as the appointed person may specify; and
  - (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.
- (4) Different dates and different persons may be specified for the purposes of paragraph (1).
- (5) In this rule, “hearing statement” means, and is comprised of—
  - (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward to a hearing session;
  - (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on; and
  - (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

### **Procedure at hearing**

- 5.—(1) Except as otherwise provided in these Hearing Session Rules, the procedure at a hearing 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 hearing session, to state at the commencement of the hearing session the procedure the appointed person proposes to adopt.
- (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 issues being considered at the hearing session, the appointed person may allow one or more persons to appear on behalf of some or all of any persons so interested.
- (5) A hearing is to take the form of a discussion led by the appointed person and cross-examination is not permitted.
- (6) The appointed person may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.
- (7) The appointed person may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing 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 hearing session is to be held.

## 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.

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### **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.

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SCHEDULE 3

Regulation 4(1) and (3)

Notices under regulation 4

PART 1

Notice for service on owner of the building

SCHEDULED MONUMENT (APPEALS) (SCOTLAND) REGULATIONS 2015

Notice under regulation 4(1) of appeal under section 4B of the Ancient Monuments and Archaeological Areas Act 1979

Proposed works at [Note 1]

TAKE NOTICE

1. That appeal is being made to the Scottish Ministers by [Note 2]

\*(i) against the decision of Historic Environment Scotland.

\*(ii) on the failure of Historic Environment Scotland to give a decision on an application to them.

2. If you wish to make representations to the Scottish Ministers about the appeal, you should make them in writing not later than [Note 3] to [Note 4].

Signed .....

\*On behalf of .....

Date .....

\*Delete where inappropriate

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Note 1 - Insert address or location of monument and brief description of the proposed works.

Note 2 - Insert name of applicant.

Note 3 - Insert date. The date must not be earlier than 21 days after the date on which notice is given.

Note 4 - Insert address. The address is the same address to which the notice of appeal is sent.

## PART 2

### Notice for publication in local newspaper

#### SCHEDULED MONUMENT (APPEALS) (SCOTLAND) REGULATIONS 2015

Notice under regulation 4(2) of appeal under section 4B of the Ancient Monuments and Archaeological Areas Act 1979

Proposed works at [Note 1]

#### TAKE NOTICE

1. That appeal is being made to the Scottish Ministers by [Note 2]

\*(i) against the decision of Historic Environment Scotland.

\*(ii) on the failure of Historic Environment Scotland to give a decision on an application to them.

2. Representations about the appeal may be made by any owner of the monument. If you wish to make representations you should make them in writing not later than [Note 3] to [Note 4].

Signed .....

\*On behalf of .....

Date .....

\*Delete where inappropriate

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Note 1 - Insert address or location of monument and brief description of the proposed works.

Note 2 - Insert name of applicant.

Note 3 - Insert date. The date must not be earlier than 21 days after the date of publication of the notice.

Note 4 - Insert address. The address is the same address to which the notice of appeal is sent.