

SCHEDULE 7

Article 93

Appeals procedure

SECTION 1

Procedure for appeals against determinations, notices or penalties made or given by the Scottish Environment Protection Agency

1. The section applies to appeals against determinations, notices or penalties made or given by the Scottish Environment Protection Agency.
2. A person who wishes to appeal to the Scottish Ministers (“the appeal body”) under article 87 must give to the appeal body written notice of the appeal together with a statement of the grounds of appeal.
3. The appeal body must as soon as is reasonably practicable send to the administrator a copy of that notice and statement.
4. An appellant may withdraw an appeal by notifying the appeal body and the appeal body must as soon as is reasonably practicable notify the administrator.
5. Notice of appeal in accordance with paragraph 2 is to be given before the expiry of the period of 40 calendar days after the date of—
 - (a) the determination referred to in article 57(1);
 - (b) service of an enforcement notice;
 - (c) imposition of a civil penalty.

SECTION 2

Procedure for appeals against determinations, notices or penalties made or given by the chief inspector or the Department of the Environment

6. This section applies to appeals against determinations, notices or penalties made or given by—
 - (a) the chief inspector;
 - (b) the Department of the Environment.
7. A person who wishes to appeal to the Planning Appeals Commission (“the appeal body”) under article 87 must give to the appeal body written notice of the appeal together with a statement of the grounds of appeal.
8. The appeal body must as soon as is reasonably practicable send to the administrator a copy of that notice and that statement.
9. An appellant may withdraw an appeal by notifying the appeal body and the appeal body must as soon as is reasonably practicable notify the administrator.
10. Notice of appeal in accordance with paragraph 7 is to be given before the expiry of the period of 47 calendar days beginning with the date of—
 - (a) the determination referred to in article 57(1);
 - (b) service of an enforcement notice;
 - (c) imposition of the civil penalty.

11. The appeal body must determine the appeal and paragraphs (1), (3), (4) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991(1) apply in relation to the determination of the appeal as they apply in relation to the determination of an appeal under that Order.

12. The Planning Appeals Commission must determine the process for determining appeals taking into account any requests of either party to the appeal.

13. An appeal under this section 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 this Order.

SECTION 3

Procedure for appeals against determinations, notices or penalties made or given by the Welsh Ministers or the Scottish Ministers

14. This section applies where the appellant is or includes—

- (a) the Natural Resources Body for Wales;
- (b) the Scottish Environment Protection Agency.

15. Where the appellant wishes to appeal to an independent person appointed by the Welsh Ministers or the Scottish Ministers under article 89(3) (“the appeal body”) the appellant must give written notice of the appeal together with a statement of the grounds of appeal.

16.—(1) Where the appellant is or includes the Natural Resources Body for Wales, the notice of appeal in accordance with paragraph 15 is to be given before the dates described in sub-paragraph (2).

(2) The dates referred to in sub-paragraph (1) are 28 calendar days after the date of—

- (a) the determination referred to in article 57(1);
- (b) service of an enforcement notice;
- (c) imposition of the civil penalty.

17.—(1) Where the appellant is or includes the Scottish Environment Protection Agency, the notice of appeal in accordance with paragraph 15 is to be given before the dates described in sub-paragraph (2).

(2) The dates referred to in sub-paragraph (1) are 40 calendar days after the date of—

- (a) the determination referred to in article 57(1);
- (b) service of an enforcement notice;
- (c) imposition of the civil penalty.

18. The appeal body may decide an appeal received late.

19. An appellant may withdraw an appeal by notifying the appeal body, and as soon as is reasonably practicable the appeal body must notify the administrator.

20. The appeal body may publicise the appeal where it considers it appropriate to do so.

21. The Welsh Ministers or the Scottish Ministers as appropriate must appoint an independent person to hear an appeal on behalf of that body.

22. The appeal body may—

- (a) adopt such procedures as it sees fit to determine an appeal, taking into account any requests of the parties to the appeal;

(1) [S.I. 1991/1220 \(N.I. 11\)](#).

- (b) request an independent person to make a determination in relation to any subject matter of the appeal.
- 23.** On request by the administrator, the appeal body may award the administrator its reasonable costs of an appeal where the appeal body has given the appellant written notice that in its opinion—
- (a) the appeal is frivolous or vexatious or otherwise has no reasonable prospects of success; or
 - (b) the appeal is conducted in an unreasonable or vexatious manner.
- 24.** The costs under paragraph 23—
- (a) are those agreed by the parties to the appeal or in default of agreement, as found by the appeal body;
 - (b) if unpaid, are recoverable as a civil debt by the administrator.