

SCHEDULE 9

Article 74(1)

Appeals to Scottish Land Court

1.—(1) A person who wishes to appeal to the Scottish Land Court under article 70 against a decision of the regulator must—

- (a) send the appropriate form to the Scottish Land Court together with the documents referred to in sub-paragraph (2);
- (b) at the same time, send a copy of that form to the regulator together with copies of the documents referred to in sub-paragraph (2)(a) and (f).

(2) The documents are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant plan;
- (d) a copy of any relevant correspondence between the appellant and the regulator;
- (e) a copy of any notice (or particulars of any deemed refusal) which is the subject matter of the appeal;
- (f) a statement indicating whether the appellant wishes the appeal to be—
 - (i) in the form of a hearing; or
 - (ii) to be disposed of on the basis of written representations.

(3) An appeal to the Scottish Land Court may be made on one or more of the following grounds—

- (a) the decision or notice was based on an error of fact;
- (b) the decision or notice was wrong in law;
- (c) the decision or notice was unreasonable for any other reason (including that the amount of a penalty was unreasonable);
- (d) any other reason.

(4) In this Schedule—

“appropriate form” has the meaning given in rule 3 of the Rules of the Scottish Land Court Order 2014(1);

“decision” includes a deemed refusal under this Order.

2.—(1) Subject to sub-paragraph (2), the appropriate form must be sent to the Scottish Land Court before the expiry of the period of 28 days beginning with the date of the decision.

(2) The Scottish Land Court may accept the appropriate form after the expiry of that period where satisfied that there was a good reason for the failure to bring the appeal in time.

3.—(1) The Scottish Land Court may determine an appeal, or any part of an appeal, on the basis of written representations and without a hearing where—

- (a) the parties agree; or
- (b) the Scottish Land Court considers it can determine the matter justly without a hearing.

(2) The Scottish Land Court must not determine the appeal without a hearing without first giving the parties notice of its intention to do so, and an opportunity to make written representations as to whether there should be a hearing.

(1) S.S.I. 2014/229.

4.—(1) The regulator must, within 16 days of receipt of the copy of the appropriate form, give notice of it to any person who appears to the regulator to have a particular interest in the appeal (“interested party”).

(2) A notice under sub-paragraph (1) must—

- (a) state that an appeal has been initiated;
- (b) state the name of the appellant;
- (c) describe the decision or notice to which the appeal relates;
- (d) state that, if a hearing is to be held wholly or partly in public, an interested party will be notified of the date, time and location of the hearing;
- (e) state that an interested party may request to be heard at a hearing.

(3) An interested party may request the regulator to provide the interested party with a copy of the documents set out in paragraph 1(2) only for the purposes of the appeal.

(4) Where a request is made under sub-paragraph (3), the regulator must provide the documents to the interested party as soon as reasonably practicable.

(5) An interested party may—

- (a) make representations to the Scottish Land Court in relation to the appeal;
- (b) be heard at a hearing in relation to the appeal.

(6) The representations by an interested party must be made within 16 days of the date of the notice under sub-paragraph (1).

(7) The Scottish Land Court must provide a copy of any representations to the parties.

(8) The regulator must, within 8 days of sending a notice under sub-paragraph (1), give notice to the Scottish Land Court of the persons to whom and the date on which the notice was sent.

(9) If an appeal is withdrawn, the regulator must give notice to all interested parties about the withdrawal.