



1. The Petroleum (Consolidation) Regulations 2014 is a relevant statutory provision of the Health and Safety at Work etc. Act 1974 (HSWA). This note gives details of the present procedure for dealing with appeals arising from Section 44 of the HSWA. It should be read in conjunction with the Hearings Procedure Rules (see paragraph 5).
2. Under Section 44 of the Health and Safety at Work etc Act 1974 (HSWA), any person who is aggrieved by a decision of a Petroleum Enforcement Authority in connection with a storage certificate may appeal to the Secretary of State.
3. An outline of the procedure for petroleum licensing appeals is given in this note for the guidance of appellants.
4. Throughout this note, words indicating the masculine gender should be taken to include the feminine.
5. Appellants should write to the Department for Work and Pensions (see paragraph 15), explaining the specific reasons for the appeal and enclosing any relevant correspondence.
6. Once an appeal has been made, there are two possible routes by which it may proceed. If either the appellant or the licensing authority expresses a wish to appear and be heard, the formal procedure laid down in the Health and Safety Licensing Appeals (Hearings Procedure) Rules 1974 (Statutory Instrument 1974 No. 2040) or the Health and Safety Licensing Appeals (Hearings Procedure) (Scotland) Rules 1974 (Statutory Instrument 1974 No.2068) must be followed. The Rules are available from Her Majesty's Stationery Office and should be read in conjunction with this note. However, if neither party wishes to appear and be heard, the appeal may be dealt with on the basis of written submissions and, if appropriate, a site inspection, but without a hearing.

### **Appeals which involve a hearing**

- 7 When a hearing has been requested, the usual practice is for the Secretary of State to appoint a person (a specialist from the Health and Safety Executive or elsewhere) to act independently to hear the appeal on his behalf. If either party objects to the person appointed to hear the appeal, the party should write giving reasons to the Department for Work and Pensions (DWP), which handles the general administrative arrangements for appeals. It is not possible to give a typical time scale for an appeal because it may be affected by a number of factors involving the licensing authority, the appellant or DWP. However, some particular restraints on timing are placed on the appeal procedure by the Hearings Procedure Rules.
- 8 After the date, place and time of the hearing have been arranged, the parties must be given 42 days' notice of the arrangements unless, by mutual agreement, they consent to a shorter period of notice. The licensing authority may be required to place a notice of the hearing in the local press so that any interested person may make representations on matters related to the appeal. At the discretion of the appointed person, any interested person may be invited to present his submission at the hearing. Members of the public are not entitled to attend the hearing as it is not a public hearing
- 9 The appellant is required to supply to the licensing authority, usually not later than 21 days before the hearing, a written statement of any submission which he intends to put forward. The licensing authority is also required to supply to the appellant, at least 28 days before the hearing, a written statement of any submission. Copies of any statements must be supplied to the appointed person at the same time. Again, these time limits may be shortened with the consent and agreement of the parties.

- 10 It is the normal practice for the appointed person to visit the site with the interested parties immediately after a hearing so that he can see at first hand the facts which relate to the appeal.
- 11 After the hearing and site visit, the appointed person sends to the appellant and the licensing authority the first part of his report containing a summary of the evidence given at the hearing and his findings. Each party is allowed by the Rules a period of 14 days to comment on the report. The final version of the report, including the appointed person's recommendations, is then sent to the Secretary of State who decides the result of appeal.
- 12 DWP notifies the decision and the reasons for it to the parties concerned by letter.
- 13 When the Secretary of State upholds the appeal, he may direct, under section 44(5) of the HSWA, the licensing authority to issue the licence subject to the conditions he prescribes.

### **Appeals without a hearing**

- 14 If neither party wishes to appear and be heard, the appeal may be determined without a hearing. In this case, the procedure followed is much simpler as it is not subject to the detailed legal constraints of the Hearings Procedure Rules. As a result, appeals tend to be determined more quickly.
- 15 A specialist (see paragraph 6) is asked by the Secretary of State to act independently to enquire into the circumstances of the appeal. He arranges a time when he will visit the site in question and invites the interested parties to attend. Before the site visit, DWP invites the parties to make written submissions and sends the submission of each party to the other for comments. The appellant is required to send DWP plans of premises for which an appeal is being made. He may also be required to make available inventory or other records for the specialist's examination on the day of the site visit.
- 16 After the site visit, the specialist sends to the appellant and the licensing authority the first part of his report containing a summary of the evidence and his findings. Each party is asked to comment on the report within 14 days. The specialist makes his recommendations after taking into consideration the comments if any and sends the final version of his report to the Secretary of State. When the Secretary of State has decided the appeal, DWP notifies the parties of his decision as in paragraphs 11 12.

**Useful addresses are as follows:**

For making appeals:

Secretary of State for Work and Pensions  
c/o Department for Work and Pensions  
Caxton House  
Tothill Street  
London  
SW1H 9DA

For advice and general information on petroleum licensing matters:

Chemicals Regulations Directorate  
Health and Safety Executive Head Office  
Redgrave Court,  
Merton Road  
Bootle,  
Merseyside  
L20 7HS  
0151 951 40000

For advice on site specific matters on filling station in West Yorkshire:

The Petroleum/Explosives Supervisor  
West Yorkshire Fire & Rescue Service  
Service Delivery Centre  
Stanningley Road  
Bramley  
Leeds  
LS12 3PL  
07795 642280