



# Town and Country Planning (Costs of Inquiries etc.) Act 1995

## 1995 CHAPTER 49

An Act to make provision authorising or requiring certain local authorities with functions under the enactments relating to Town and Country Planning to make to, or to persons appointed by, certain Ministers of the Crown, or to persons appointed by those authorities, payments in respect of the administrative cost of, or otherwise connected with, certain local inquiries or other hearings, examinations in public, or the consideration of certain objections, under those enactments; to validate the imposition by such Ministers on those authorities of requirements to make such payments, and the making by those authorities of such payments, whether before or after the passing of this Act; to make provision with respect to the remuneration and allowances payable to persons appointed to hold such local inquiries or other proceedings; and for connected purposes. [8th November 1995]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Costs of holding certain inquiries etc**

- (1) In the Town and Country Planning Act 1990 (in this Act referred to as “the 1990 Act”) after section 303 (fees for planning applications etc) there shall be inserted—

#### **“303A Responsibility of local planning authorities for costs of holding certain inquiries etc**

- (1) This section applies in any case where, at any time after its coming into force, the Secretary of State appoints any person to hold, or as one of the persons who are to hold, a qualifying inquiry, within the meaning of this section, that is to say—

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- (a) to hold a local inquiry or other hearing under section 16 or 42 or under paragraph 8(1)(a) of Schedule 7;
- (b) to consider objections under paragraph 8(1)(b) of that Schedule; or
- (c) to conduct an examination in public under section 35B(1);

and the references in paragraphs (a) to (c) above to the enactments there mentioned include references to those enactments as from time to time amended, extended or applied by or under any other enactment whether before or after the coming into force of this section.

- (2) The Secretary of State may require the whole or any part of the costs borne by him in relation to the qualifying inquiry to be paid by the local planning authority causing the qualifying inquiry to be held.
- (3) The Secretary of State may cause the amount of any such costs to be certified; and any amount so certified and required by him to be paid by a local planning authority shall be recoverable from that authority as a civil debt.
- (4) What may be recovered under this section by the Secretary of State is the entire administrative cost of, or incidental to, the qualifying inquiry, so far as borne by him, including, in particular, such reasonable amount or element as he may determine in respect of the general staff costs and overheads of his department.
- (5) For the purposes of subsection (4), the Secretary of State may by regulations prescribe a standard daily amount in relation to any description of qualifying inquiry and any description of person appointed to hold it, or appointed as one of the persons who are to hold it; and where, in relation to a qualifying inquiry of that description, a person of that description is or has been so appointed, what may be recovered in respect of that qualifying inquiry by virtue of the appointment of that person (in addition to what may be recovered by virtue of the appointment of any other person) is—
  - (a) the prescribed standard amount from time to time applicable in the case of that qualifying inquiry and that person in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is engaged in the holding of, or is otherwise engaged on work connected with, the qualifying inquiry;
  - (b) any costs actually incurred on travelling or subsistence allowances payable to that person in connection with the qualifying inquiry;
  - (c) any costs attributable to the appointment of an assessor to assist that person (or, in a case where that person is appointed as one of the persons who are to hold the qualifying inquiry, an appropriate proportion of any costs attributable to the appointment of an assessor to assist those persons); and
  - (d) any other costs attributable to the appointment of that person.
- (6) The cost of, or incidental to, a qualifying inquiry which does not take place may be recovered by the Secretary of State from the local planning authority from which it would have been recoverable, had the qualifying inquiry taken place, to the same extent, and in the same way, as the cost of, or incidental to, a qualifying inquiry which does take place.
- (7) In the application of subsections (2) to (6) in relation to an examination in public under section 35B(1), there shall be left out of account any person—

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- (a) who is appointed to conduct, or is appointed as one of the persons who are to conduct, the examination; and
  - (b) whose remuneration, and travelling or subsistence allowances (if any), in respect of that appointment are (whether by agreement or arrangement or otherwise) to be paid to him by the local planning authority causing the examination to be held.
- (8) The Secretary of State may by regulations prescribe a standard daily amount in relation to any description of person who is appointed to conduct, or is appointed as one of the persons who are to conduct, an examination in public under section 35B(1) and whose remuneration, and travelling or subsistence allowances (if any), in respect of that appointment are to be paid as mentioned in subsection (7)(b); and where—
  - (a) a standard daily amount is so prescribed in relation to any description of person,
  - (b) a person of that description is or has been appointed to conduct, or is or has been appointed as one of the persons who are to conduct, such an examination, and
  - (c) the remuneration, and travelling or subsistence allowances (if any), of that person in respect of that appointment are to be paid as mentioned in subsection (7)(b),the amount of the remuneration so payable to that person by the local planning authority in question in respect of the appointment shall be the prescribed standard amount from time to time applicable in the case of that person in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is engaged in the conduct of, or is otherwise engaged on work connected with, that examination (whether that examination does or does not take place).
- (9) The Secretary of State may also by regulations under subsection (8) prescribe, in relation to any description of person, the rates or amounts of any travelling or subsistence allowances payable as mentioned in subsection (7)(b) by a local planning authority causing an examination in public under section 35B(1) to be held to a person of that description appointed to conduct, or appointed as one of the persons who are to conduct, the examination.
- (10) In this section—
  - (a) any reference to costs borne by the Secretary of State includes a reference to costs which, apart from this section, would fall, or would have fallen, to be borne by him; and
  - (b) any reference to any remuneration or allowance being paid or payable to a person includes a reference to its being paid or payable for him.
- (11) This section applies in relation to costs arising before, as well as costs arising after, its coming into force.”
- (2) As respects costs borne by the Secretary of State in respect of a qualifying inquiry, within the meaning of section 303A of the 1990 Act, which arise or arose before the coming into force of the first regulations made by virtue of subsection (5) of that section, that section shall have effect with the following modifications, that is to say—
  - (a) in subsection (5)—
    - (i) for the words “may by regulations prescribe” there shall be substituted the words “may determine”; and

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- (ii) after the words “is or has been so appointed” there shall be inserted the words “and that standard daily amount has been notified to the local planning authority causing the qualifying inquiry to be held”; and
  - (b) in paragraph (a) of that subsection, for the words “the prescribed standard amount” there shall be substituted the words “the standard amount, determined and notified as mentioned above,”.
- (3) As respects the remuneration, and travelling or subsistence allowances (if any), payable by a local planning authority to a person falling within subsection (7) of section 303A of the 1990 Act in respect of any day before the coming into force of the first regulations under subsection (8) of that section, that section shall have effect with the following modifications, that is to say—
  - (a) in subsection (8), for the words “may by regulations prescribe” there shall be substituted the words “may determine”;
  - (b) in paragraph (a) of that subsection, for the word “prescribed” there shall be substituted the word “determined”;
  - (c) after paragraph (c) of that subsection there shall be inserted the words “and
    - (d) that standard daily amount has been notified to the local planning authority causing the examination to be held,”;
  - (d) in the words following that paragraph, for the words “the prescribed standard amount” there shall be substituted the words “the standard amount, determined and notified as mentioned above,”;
  - (e) in subsection (9), for the words “may also by regulations under subsection (8) prescribe” there shall be substituted the words “may also determine”; and
  - (f) after that subsection there shall be inserted—
    - “(9A) Where any such rate or amount as is mentioned in subsection (9)—
      - (a) is so determined in relation to any description of person, and
      - (b) has been notified to a local planning authority causing an examination in public under section 35B(1) to be held,
 the rate or amount of any travelling or subsistence allowances payable by that local planning authority as mentioned in subsection (7)(b) to a person of that description in respect of his appointment as mentioned in subsection (9) shall be the rate or amount, so determined and notified, from time to time applicable in the case of that person.”
- (4) In section 303A of the 1990 Act as it has effect by virtue of subsection (2) or (3) above, any reference to a determination or notification of a rate or amount—
  - (a) is a reference to a determination or notification of the rate or amount in question, whether before or after the passing of this Act, and
  - (b) includes (as respects determination) a reference to such a determination made before the passing of this Act with the approval of the Treasury, whether given as mentioned in section 2(15) below or otherwise.
- (5) In section 35B of the 1990 Act (examinations in public in connection with structure plans) after subsection (7) there shall be added—
  - “(8) Without prejudice to section 303A(8) and (9), regulations may make provision with respect to the remuneration and allowances of any person or persons appointed by the Secretary of State to conduct an examination in public under this section.”

## **2 Validation, with retrospective effect, of certain requirements to pay, and certain payments made, in connection with past appointments**

- (1) This section applies in any case where, at any time before the passing of this Act, the Minister appointed any person to hold, or as one of the persons who are or were to hold, a qualifying inquiry, within the meaning of this section, that is to say—
- (a) to hold a local inquiry or other hearing under—
    - (i) section 8 of the Town and Country Planning Act 1968;
    - (ii) section 13 of the Town and Country Planning Act 1971;
    - (iii) paragraph 6 of Schedule 1 to the Local Government Act 1985;
    - (iv) section 16 or 42 of the 1990 Act;
    - (v) paragraph 9 of Part II of Schedule 2 to that Act; or
    - (vi) paragraph 8(1)(a) of Schedule 7 to that Act;
  - (b) to consider objections under paragraph 8(1)(b) of Schedule 7 to the 1990 Act; or
  - (c) to conduct an examination in public under section 35B(1) of the 1990 Act;
- and the references in paragraphs (a) to (c) above to the enactments there mentioned are references to those enactments as originally enacted, and include references to those enactments as from time to time amended, extended or applied by or under any other enactment, whether before or after the passing of this Act.
- (2) The Minister shall have, and shall be taken at all times to have had, power to require the whole or any part of the costs borne by him in relation to the qualifying inquiry to be paid by the local planning authority causing the qualifying inquiry to be held; and any amount so required by him to be paid by a local planning authority shall be, and shall be taken at all times after the making of the requirement to have been, recoverable from that authority as a civil debt.
- (3) What may be recovered under this section by the Minister is, and shall be taken at all times to have been, the entire administrative cost of, or incidental to, the qualifying inquiry, so far as borne by him, including, in particular, such reasonable amount or element as he may determine, or may have determined, in respect of the general staff costs and overheads of his department.
- (4) For the purposes of subsection (3) above, the Minister shall have, and shall be taken at all times to have had, power to determine a standard daily amount in relation to any description of qualifying inquiry and any description of person appointed to hold it, or appointed as one of the persons who are or were to hold it; and where—
- (a) a standard daily amount is or was so determined in relation to any description of qualifying inquiry and any description of person appointed to hold it or appointed as one of the persons who are or were to hold it,
  - (b) a person of that description was so appointed in relation to a qualifying inquiry of that description, and
  - (c) that standard daily amount has or had been notified to the local planning authority causing the qualifying inquiry to be held,
- what may be recovered in respect of that qualifying inquiry by virtue of the appointment of that person (in addition to what may be recovered by virtue of the appointment of any other person) shall be, and shall be taken at all times to have been, the amounts specified in subsection (5) below.
- (5) For the purposes of subsection (4) above, the amounts in question are—

- (a) the standard amount, determined and notified as mentioned in that subsection, from time to time applicable in the case of the qualifying inquiry in question and the person in question in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is or was engaged in the holding of, or is or was otherwise engaged on work connected with, the qualifying inquiry;
  - (b) any costs actually incurred on travelling or subsistence allowances which are or were payable to that person in connection with the qualifying inquiry;
  - (c) any costs attributable to the appointment of an assessor to assist that person (or, in a case where that person was appointed as one of the persons who are or were to hold the qualifying inquiry, an appropriate proportion of any costs attributable to the appointment of an assessor to assist those persons); and
  - (d) any other costs attributable to the appointment of that person.
- (6) If no such standard daily amount as is mentioned in subsection (4) above is or was applicable in relation to—
- (a) the qualifying inquiry in question, or
  - (b) the person appointed to hold it, or appointed as one of the persons who are or were to hold it,
- the amount that may be recovered shall be, and shall be taken at all times to have been, such sum as the Minister considers or considered reasonable in all the circumstances of the case, and may, without prejudice to the generality of subsection (3) above, include elements (whether separately identified or not) in respect of any item specified in paragraph (b), (c) or (d) of subsection (5) above.
- (7) The cost of, or incidental to, a qualifying inquiry which did not, or does not, take place shall be, and shall be taken at all times to have been, recoverable by the Minister from the local planning authority from which it would have been recoverable, had the qualifying inquiry taken place, to the same extent, and in the same way, as the cost of, or incidental to, a qualifying inquiry which did, or does, take place.
- (8) In the application of subsections (2) to (7) above in relation to an examination in public under section 35B(1) of the 1990 Act, there shall be left out of account any person—
- (a) who was appointed to conduct, or was appointed as one of the persons who are or were to conduct, the examination; and
  - (b) whose remuneration, and travelling or subsistence allowances (if any), in respect of that appointment are or were (whether by agreement or arrangement or otherwise) to be paid to him by the local planning authority causing the examination to be held.
- (9) The Minister shall have, and shall be taken at all times to have had, power to determine a standard daily amount in relation to any description of person who was appointed to conduct, or was appointed as one of the persons who are or were to conduct, an examination in public under section 35B(1) of the 1990 Act and whose remuneration, and travelling or subsistence allowances (if any), in respect of that appointment are or were to be paid as mentioned in subsection (8)(b) above; and where—
- (a) a standard daily amount is or was so determined in relation to any description of person;
  - (b) a person of that description was appointed to conduct, or was appointed as one of the persons who are or were to conduct, such an examination,

- (c) the remuneration, and travelling or subsistence allowances (if any), of that person in respect of that appointment are or were to be paid as mentioned in subsection (8)(b) above, and
- (d) that standard daily amount has or had been notified to the local planning authority causing the examination in public to be conducted,

the amount of the remuneration so payable to that person by the local planning authority in question in respect of the appointment shall be, and shall be taken at all times to have been, the standard amount so determined and notified, from time to time applicable in the case of that person in respect of each day, or an appropriate proportion of that amount in respect of a part of a day, on which that person is or was engaged in the conduct of, or is or was otherwise engaged on work connected with, the examination in public concerned (whether that examination did or did not, or does or does not, take place).

- (10) The Minister shall have, and shall be taken at all times to have had, power to determine, in relation to any description of person, the rates or amounts of any travelling or subsistence allowances payable as mentioned in subsection (8)(b) above by a local planning authority causing an examination in public under section 35B(1) of the 1990 Act to be held to any person of that description falling within subsection (8) above and appointed as mentioned in subsection (1) above to conduct, or as one of the persons who are or were to conduct, the examination.
- (11) Where any such rate or amount as is mentioned in subsection (10) above—
  - (a) is or was so determined in relation to any description of person, and
  - (b) has or had been notified to a local planning authority causing an examination in public under section 35B(1) of the 1990 Act to be held,the rate or amount of any travelling or subsistence allowances payable by that local planning authority as mentioned in subsection (8)(b) above to a person of that description in respect of his appointment as mentioned in subsection (10) above shall be, and shall be taken at all times to have been, the rate or amount, so determined and notified, from time to time applicable in the case of that person.
- (12) Without prejudice to the generality of section 111 of the Local Government Act 1972 (subsidiary powers of local authorities), a local planning authority shall have, and shall be taken at all times to have had, power to make payments to the Minister on account of any actual or contingent liability under or by virtue of this section, whether or not the Minister has or had, before the making of the payment in question, required the whole or any part of the costs in question to be paid to him by the authority.
- (13) Where any sums paid to the Minister by a local planning authority in respect of the whole or any part of the costs borne by him in relation to a qualifying inquiry have, before the passing of this Act, been repaid to a local planning authority, with or without interest,—
  - (a) the Minister may require those sums, together with any interest so paid, to be paid back to him by the local planning authority; and
  - (b) any amount so required to be paid back shall be recoverable by the Minister from the local planning authority as a civil debt.
- (14) Where both this section and section 303A of the 1990 Act apply in relation to the same qualifying inquiry, the same costs, or the same part of any costs, shall not be recoverable both under this section and under that section; but the Minister may make any such apportionment as he considers appropriate for the purpose of securing that

the costs in question may be recovered by him either under the one section or the other or partly under the one section and partly under the other.

(15) Any reference in subsection (4), (9) or (10) above to the Minister having determined, or having had power to determine, any rate or amount includes, as respects any time before the passing of this Act, a reference to his having done so, or having had power to do so, with the approval of the Treasury; and the Treasury shall be taken at any such time to have had power to give the Minister their general approval for the making of such determinations of any class or description which was specified by them for the purpose.

(16) In this section—

- (a) any reference to costs borne by the Minister includes a reference to costs which, apart from this section, would fall, or would have fallen, to be borne by him; and
- (b) any reference to any remuneration or allowance being paid or payable to a person includes a reference to its being paid or payable for him.

(17) In this section—

“local planning authority” includes, as respects any time before the passing of this Act, any body which was, at that time, a local planning authority within the meaning of the enactments relating to Town and Country Planning, as in force at that time in England and Wales;

“the Minister” means the Secretary of State, except that in relation to section 8 of the Town and Country Planning Act 1968 it means the Secretary of State or the Minister of Housing and Local Government.

### **3 Costs of holding certain Scottish inquiries etc**

(1) The Town and Country Planning (Scotland) Act 1972 (in this Act referred to as “the 1972 Act”) shall be amended as follows.

(2) In section 11 (inquiries etc. with respect to local plans)—

(a) after subsection (1) there shall be inserted—

“(1A) The planning authority shall—

- (a) where a person appointed under or by virtue of this section is in the public service of the Crown, pay the Secretary of State; and
- (b) in any other case, pay the person so appointed,

a sum, determined in accordance with regulations under subsection (1B) below, in respect of the performance by the person so appointed of his functions in relation to the inquiry or hearing (whether or not it takes place).

(1B) Regulations made by the Secretary of State may make provision with respect to the determination of the sum referred to in subsection (1A) above and may in particular prescribe, in relation to any class of person appointed under or by virtue of this section, a standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing.



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- (1C) Without prejudice to the generality of subsection (1B) above, the Secretary of State may, in prescribing by virtue of that subsection a standard daily amount for any class of person—
- (a) where the persons of that class are in the public service of the Crown, have regard to the general staff costs and overheads of his department; and
  - (b) in any other case, have regard to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings.”; and
- (b) in subsection (2)(b), the words “remuneration and” shall be omitted.
- (3) In paragraph 7 of Schedule 6A (inquiries etc. with respect to simplified planning zones)—
- (a) after sub-paragraph (3) there shall be inserted—

“(3A) The planning authority shall—

    - (a) where a person appointed under or by virtue of this paragraph is in the public service of the Crown, pay the Secretary of State; and
    - (b) in any other case, pay the person so appointed, a sum, determined in accordance with regulations under sub-paragraph (3B) below, in respect of the performance by the person so appointed of his functions in relation to the inquiry or hearing (whether or not it takes place).

(3B) Regulations made by the Secretary of State may make provision with respect to the determination of the sum referred to in sub-paragraph (3A) above and may in particular prescribe, in relation to any class of person appointed under or by virtue of this paragraph, a standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing.

(3C) Without prejudice to the generality of sub-paragraph (3B) above, the Secretary of State may, in prescribing by virtue of that sub-paragraph a standard daily amount for any class of person—

    - (a) where the persons of that class are in the public service of the Crown, have regard to the general staff costs and overheads of his department; and
    - (b) in any other case, have regard to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings.”; and
  - (b) in sub-paragraph (4)(c), the words “remuneration and” shall be omitted.
- (4) The amendments made by subsections (2) and (3) above shall have effect in relation to the performance of functions in relation to inquiries or hearings before as well as after the passing of this Act.
- (5) Until the coming into force of the first regulations under section 11(1B) of, or as the case may be paragraph 7(3B) of Schedule 6A to, the 1972 Act—

- (a) the Secretary of State—
    - (i) may, subject to subsection (6) below, determine, in relation to any class of person appointed under or by virtue of that section or, as the case may be, that paragraph, the standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing; and
    - (ii) shall notify the applicable standard daily amount to the planning authority causing the inquiry or hearing to be held; and
  - (b) the sum payable by the planning authority under section 11(1A) or, as the case may be, paragraph 7(3A) shall be determined by reference to the applicable standard daily amount determined under paragraph (a)(i) above.
- (6) In determining under subsection (5)(a)(i) above the standard daily amount for any class of person, the Secretary of State may—
- (a) where the persons of that class are in the public service of the Crown, have regard to the general staff costs and overheads of his department; and
  - (b) in any other case, have regard to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings.

#### **4 Retrospective validation of payments etc. in connection with certain past Scottish inquiries and hearings**

- (1) As respects any inquiry or other hearing under section 8 of the Town and Country Planning (Scotland) Act 1969 or section 11 of the 1972 Act held before the passing of this Act—
- (a) the Secretary of State shall be taken always to have had power to determine, in relation to any class of person appointed under or by virtue of the provision in question, the standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing, and in so determining, to have regard—
    - (i) where the persons of that class are in the public service of the Crown, to the general staff costs and overheads of his department; and
    - (ii) in any other case, to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings; and
  - (b) the planning authority shall be taken always to have been under an obligation to pay to—
    - (i) the Secretary of State, where the person appointed under or by virtue of the provision in question was in the public service of the Crown; and
    - (ii) in any other case, the person so appointed,
      - a sum, determined by reference to the applicable standard daily amount, in respect of the performance by the person so appointed of his functions in relation to the inquiry or hearing (whether or not it took place).
- (2) Where any sums paid to the Secretary of State by a planning authority in respect of the performance by a person appointed as mentioned in subsection (1) above of his functions in relation to an inquiry or hearing referred to in that subsection have, before the passing of this Act, been repaid to the authority, with or without interest,

the authority shall, if the Secretary of State so requires, pay those sums, together with any interest so paid, to him.

- (3) Where both this section and, as the case may be, section 8 of the Town and Country Planning (Scotland) Act 1969 or section 11 of the 1972 Act apply in relation to the same inquiry or hearing, the Secretary of State may make such apportionment as he considers appropriate for the purpose of securing payment by the planning authority under this section or that section, or partly under this section and partly under that section.

## **5 Short title, interpretation, financial provision, and extent**

- (1) This Act may be cited as the Town and Country Planning (Costs of Inquiries etc.) Act 1995.

- (2) In this Act—

“the 1972 Act” means the Town and Country Planning (Scotland) Act 1972;

“the 1990 Act” means the Town and Country Planning Act 1990;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

- (3) There shall be paid out of money provided by Parliament—

(a) any administrative expenses incurred by a Minister of the Crown in consequence of this Act; and

(b) any increase attributable to this Act in the sums payable out of money so provided under any other Act;

and any sums received by a Minister of the Crown under or by virtue of this Act shall be paid into the Consolidated Fund.

- (4) Sections 1 and 2 above extend to England and Wales only.

- (5) Sections 3 and 4 above extend to Scotland only.

- (6) This Act does not extend to Northern Ireland.