



2011 CHAPTER 25

PART 9

THE PLANNING APPEALS COMMISSION

The Planning Appeals Commission

203.—(1) There shall continue to be a planning appeals commission (in this Part referred to as the “appeals commission”).

(2) The appeals commission shall consist of the following persons appointed by the First Minister and deputy First Minister acting jointly—

- (a) a chief commissioner and deputy chief commissioner; and
- (b) such number, if any, of other commissioners as the Department may, with the consent of the Department of Finance and Personnel, determine.

(3) A commissioner must not engage, whether directly or indirectly, or be a partner of any person who engages, in a gainful profession, occupation or business if to do so would in any way be incompatible with the commissioner’s functions under this Act.

(4) There shall be paid to a commissioner such remuneration and allowances and to, or in respect of the service of, the commissioner, such pensions, allowances or benefits as the Department may determine with the approval of the Department of Finance and Personnel.

(5) The Department may appoint persons to assist the appeals commission in the performance of its functions, and there shall be paid to persons so appointed such remuneration and allowances and to, or in respect of the services of, those persons such pensions, allowances or benefits as the Department may determine with the approval of the Department of Finance and Personnel.

(6) In this Part, except in section 204(9), “the Department” means the Office of the First Minister and deputy First Minister.

Procedure of appeals commission

204.—(1) Where, under this Act or any other statutory provision, the appeals commission may determine an appeal—

- (a) the appeal shall be heard by such member or members of the appeals commission as the chief commissioner may appoint in that behalf;
- (b) except where an appeal is to be decided solely by reference to written representations, the chief commissioner may, after consultation with the appeals commission and the Department, appoint an assessor to sit with the member or members appointed under paragraph (a) at the appeal to advise the member or members on any matters arising;
- (c) notwithstanding paragraphs (a) and (b), any decision on the appeal shall, subject to any provision in rules made under subsection (5), be made by the appeals commission.

(2) Where, under this Act or any other statutory provision, the appeals commission may hold an inquiry, independent examination or hearing—

- (a) the inquiry, independent examination or hearing shall be held by such member or members of the appeals commission as the chief commissioner may appoint in that behalf;
- (b) the chief commissioner may, after consultation with the appeals commission and the Department, appoint an assessor to sit with the member or members appointed under paragraph (a) at the inquiry, independent examination or hearing to advise the member or members on any matters arising;
- (c) notwithstanding paragraphs (a) and (b), any report on the inquiry, independent examination or hearing shall, subject to any provision in rules made under subsection (5), be made by the appeals commission.

(3) The appeals commission may pay to any assessor appointed under subsection (1)(b) or (2)(b) such fees and allowances as the commission, with the approval of the Department, may approve.

(4) Where, under this Act or any other statutory provision, the appeals commission may determine an appeal in relation to a decision of a council or any other body, the commission may confirm, reverse or vary the decision and any determination of the commission on the appeal shall have the like effect as a decision of the council or, as the case may be, the body, for the purpose of this Act or any such statutory provision, except a provision relating to appeals.

(5) The Department, after consultation with the appeals commission, may make rules for regulating the procedure for proceedings before the appeals

commission and, subject to the provisions of this Act and any such rules, that procedure shall be such as the appeals commission may determine.

(6) Rules under subsection (5) which provide for the taking of any decision may, in particular, provide for that decision to be taken—

- (a) by a panel of not fewer than 4 commissioners; or
- (b) by a single commissioner.

(7) Rules under subsection (5) which provide for the making of any report may, in particular, provide for that report to be made—

- (a) by a panel of commissioners;
- (b) by a single commissioner.

(8) Rules made under subsection (5) shall be subject to negative resolution.

(9) Where, under this Act or any other statutory provision, a person has been afforded an opportunity of appearing before and being heard by the appeals commission or the appeals commission holds an inquiry or independent examination the appeals commission must make a report on the hearing, inquiry or independent examination to the relevant department and that department must consider that report.

Power to award costs

205.—(1) The appeals commission may make an order as to the costs of the parties to an appeal under any of the provisions of this Act mentioned in subsection (2) and as to the parties by whom the costs are to be paid.

(2) The provisions are—

- (a) sections 58, 60, 96, 97, 115, 143, 159, 165 and 173;
- (b) sections 96 and 97 (as applied by section 105(6));
- (c) in Schedule 2, paragraph 6(11) and (12) and paragraph 11(1);
- (d) in Schedule 3, paragraph 9.

(3) An order made under this section shall have effect as if it had been made by the High Court.

(4) Without prejudice to the generality of subsection (3), the Master (Taxing Office) shall have the same powers and duties in relation to an order made under this section as the Master has in relation to an order made by the High Court.

(5) Proceedings before the appeals commission shall, for the purposes of the Litigants in Person (Costs and Expenses) Act 1975 (c. 47), be regarded as proceedings to which section 1(1) of that Act applies.

Orders as to costs: supplementary

206.—(1) This section applies where—

- (a) for the purpose of any proceedings under this Act—
 - (i) the appeals commission is required, before a decision is reached, to give any person an opportunity, or ask any person whether that person wishes, to appear before and be heard by it; and
 - (ii) arrangements are made for a hearing to be held;
 - (b) the hearing does not take place; and
 - (c) if it had taken place, the appeals commission would have had power to make an order under section 205 requiring any party to pay any costs of any other party.
- (2) Where this section applies the power to make such an order may be exercised, in relation to costs incurred for the purposes of the hearing, as if the hearing had taken place.