



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART III

GENERAL PLANNING CONTROL

Reference of certain matters to Planning Inquiry Commission or independent tribunal

44 Constitution of Planning Inquiry Commission

- (1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under section 45 of this Act.
- (2) Any such commission shall consist of a chairman and not less than two nor more than four other members appointed by the Secretary of State.
- (3) The Secretary of State may pay to the members of any such commission such remuneration and allowances as he may with the consent of the Minister for the Civil Service determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—

“A Planning Inquiry Commission constituted under Part III of the Town and Country Planning (Scotland) Act 1972”.

45 References to a Planning Inquiry Commission

- (1) The following matters may, in the circumstances mentioned in subsection (2) of this section, be referred to a Planning Inquiry Commission, that is to say—
 - (a) an application for planning permission which the Secretary of State has under section 32 of this Act directed to be referred to him instead of being dealt with by a local planning authority;
 - (b) an appeal under section 33 of this Act (including that section as applied by or under any other provision of this Act);
 - (c) a proposal that a government department should give a direction under section 37 of this Act that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department;
 - (d) a proposal that development should be carried out by or on behalf of a government department.
- (2) Any of the matters mentioned in subsection (1) of this section may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—
 - (a) there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose ;
 - (b) the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.
- (3) Two or more of the matters mentioned in subsection (1) of this section may be referred to the same commission under this section if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- (4) Where a matter referred to a commission under this section relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.
- (5) The responsible Minister or Ministers shall, on referring a matter to a commission under this section, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.
- (6) A commission inquiring into a matter referred to them under this section shall—
 - (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out and assess the importance to be attached to those considerations or aspects;
 - (b) thereafter, if the applicant, in the case of a matter mentioned in subsection (1) (d), (b) or (c) of this section, or the local planning authority in any case so desire, afford to each of them, and, in the case of an application or appeal mentioned in the said subsection (1)(d) or (b), to any person who has made

representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act, an opportunity of appearing before and being heard by one or more members of the commission;

- (c) report to the responsible Minister or Ministers on the matter referred to them.
- (7) Any such commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.
- (8) Schedule 8 to this Act shall have effect for the construction of references in this section and in section 46 of this Act to " the responsible Minister or Ministers ".

46 Procedure on reference to a Planning Inquiry Commission

- (1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time and a reference of any other matter mentioned in section 45 of this Act may be made at any time before, but not after, the determination of the relevant application referred under section 32 of this Act or the relevant appeal under section 33 of this Act or, as the case may be, the giving of the relevant direction under section 37 of this Act, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.
- (2) Notice of the making of a reference to any such commission shall be published in the prescribed manner, and a copy of the notice shall be served on the local planning authority for the area in which it is proposed that the relevant development shall be carried out, and—
- (a) in the case of an application for planning permission referred under section 32 of this Act or an appeal under section 33 of this Act, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act;
 - (b) in the case of a proposal that a direction should be given under section 37 of this Act with respect to any development, on the local authority or statutory undertakers applying for sanction to carry out that development.
- (3) A Planning Inquiry Commission shall, for the purpose of complying with section 45(6) (b) of this Act, hold a local inquiry; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority desire an opportunity of appearing and being heard.
- (4) Where a Planning Inquiry Commission are to hold a local inquiry under subsection (3) of this section in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this section to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.

Status: This is the original version (as it was originally enacted).

- (5) An inquiry held by such a commission under this section shall be treated for the purposes of the Tribunals and Inquiries Act 1971 as one held by a Minister in pursuance of a duty imposed by a statutory provision.
- (6) Subsections (4) to (9) of section 267 of this Act (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under subsection (3) of this section as they apply to an inquiry held under that section.
- (7) Subject to the provisions of this section and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

47 Commissions to inquire into planning matters affecting Scotland and England

- (1) The Ministers may constitute a Joint Planning Inquiry Commission to inquire into and report on any matter referred to them under this section ; and the matters which may be so referred are those which may, under section 45 of this Act or section 48 of the Town and Country Planning Act 1971, be referred to a Planning Inquiry Commission but which appear to the Ministers to involve considerations affecting both Scotland and England.
- (2) A Joint Planning Inquiry Commission shall consist of a chairman and not less than two nor more than four other members appointed by the Ministers.
- (3) The Ministers may pay to the members of any such commission such remuneration and allowances as they may with the consent of the Minister for the Civil Service determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to them expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—

“A Joint Planning Inquiry Commission constituted under Part III of the Town and Country Planning (Scotland) Act 1972”.
- (6) In this section " the Ministers" means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England acting jointly; but their functions under subsection (3) of this section may, by arrangements made between them, be exercised by either acting on behalf of both.
- (7) Schedule 9 to this Act shall have effect with respect to the Joint Planning Inquiry Commissions and references to them under this section, and with respect to the proceedings of a commission on any such reference.

48 Appeal to independent tribunal

- (1) Provision may be made by a development order for securing that, in the case of decisions of a local planning authority of such classes as may be prescribed by the order, being decisions relating to the design or external appearance of buildings or other similar matters, any appeal under section 33 of this Act shall lie to an independent tribunal constituted in accordance with the provisions of that order, instead of to the Secretary of State; and in relation to any such appeal the provisions of that section (except, in subsection (5) thereof, the references to sections 24 and 26(3) of this Act) and the provisions of section 34 of this Act shall apply, subject to such adaptations and modifications as may be specified in the order as they apply in relation to appeals to the Secretary of State under the said section 33.
- (2) If any tribunal is constituted in accordance with subsection (1) of this section, the Secretary of State may pay to the chairman and members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as the Minister for the Civil Service may determine.