

SCHEDULES

SCHEDULE 9

Section 47.

JOINT PLANNING INQUIRY COMMISSIONS

Interpretation

1 In relation to matters specified in the first column of the Table below (being matters which under section 47 of this Act may be referred to a Joint Planning Inquiry Commission), " the responsible Ministers" for the purposes of this Schedule are those specified opposite in the second column of the Table, acting jointly.

TABLE

Referred Matter	Responsible Ministers
1. Application for planning permission or appeal under section 33 of this Act— (a) relating to land to which section 214(1) of this Act or section 225(1) of the Act of 1971 applies; (b) relating to other land.	The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the appropriate Minister (if different). The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England.
2. Proposal that a government department should give a direction under section 37 of this Act or section 40 of the Act of 1971, or that development should be carried out by or on behalf of a government department.	The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the Minister (if different) in charge of the government department concerned.

2 In this Schedule—

(a) "Act of 1971 " means the Town and Country Planning Act 1971;

(b) " commission " means a Joint Planning Inquiry Commission constituted under section 47 of this Act; and

(c) " referred matter " means a matter referred to a commission under that section.

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The reference

- 3 Two or more of the matters mentioned in subsection (1) of section 47 of this Act may be referred to the same commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- 4 Where a referred matter relates to a proposal to carry out development for any purpose at a particular site, the responsible Ministers may also refer to the commission the question whether development for that purpose should be instead carried out at an alternative site, whether in Scotland or in England, or partly in one and partly in the other.
- 5 The responsible Ministers shall, on referring a matter to a commission, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.
- 6 (1) A reference to a commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time.
- (2) A reference of any other matter mentioned in subsection (1) of section 47 of this Act may be made at any time before, but not after, the determination of the relevant referred application or the relevant appeal or, as the case may be, the giving of the relevant direction, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

Notice of reference to persons and authorities concerned

- 7 (1) Notice of the making of a reference to a 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.
- (2) In the case of an application for planning permission referred under section 32 of this Act or section 35 of the Act of 1971 or an appeal under section 33 of this Act or section 36 of the Act of 1971, notice shall also be served—
- (a) on the applicant or appellant; and
 - (b) on any person who has made representations, relating to the subject matter of the application or appeal, which the local planning authority are required to take into account under section 26(2) or (3) of this Act or, as the case may be, section 29(2) or (3) of the Act of 1971.
- (3) In the case of a proposal that a direction should be given by a government department under section 37 of this Act or section 40 of the Act of 1971 with respect to any development, notice shall also be served on the local authority or statutory undertakers applying for authorisation to carry out that development.
- (4) In this paragraph, " prescribed " means prescribed by regulations made by the Secretary of State and the Secretary of State for the Environment jointly in the exercise of their respective powers under this Act and the Act of 1971.

Proceedings of commission on reference

- 8 A commission inquiring into a referred matter shall—
- (a) identify and investigate the considerations relevant to, or the technical or scientific respects of, that matter which in their opinion are relevant to

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- 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, comply with paragraph 9 below in respect of affording to persons an opportunity of appearing before, and being heard by, one or more members of the commission ;
- (c) report to the responsible Ministers on the said matter.
- 9 A commission shall afford the following persons an opportunity of appearing and being heard as aforesaid:—
- (a) in any case, the local planning authority, if the authority so desire;
- (b) in the case of a matter mentioned in section 45(1)(a), (b) or (c) of this Act or section 48(1)(a), (b) or (c) of the Act of 1971, the applicant, if he so desires ; and
- (c) in the case of an application or appeal mentioned in the said section 45(1)(a) or (b) or the said section 48(1)(a) or (b), any person who has made representations relating to the subject matter of the application or appeal which the local planning authority are required to take into account under section 26(2) or (3) of this Act or section 29(2) or (3) of the Act of 1971.
- 10 The provisions of sections 32(5) and 33(4) of this Act and sections 35(5) and 36(4) of the Act of 1971 and the provisions of Schedule 7 to this Act and Schedule 9 to the Act of 1971, relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an application for planning permission, or an appeal, referred to a commission.

Local inquiries

- 11 A commission shall, for the purpose of complying with paragraph 9 above, 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 the opportunity of appearing and being heard.
- 12 Where a commission are to hold a local inquiry in connection with a referred matter and it appears to the responsible 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 Schedule to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, the responsible Minister may direct that the two inquiries be held concurrently or combined as one inquiry.
- 13 For the purposes of the Tribunals and Inquiries Act 1971 a local inquiry held by a commission—
- (a) if held in Scotland, shall be treated as one held by the Secretary of State in pursuance of a duty imposed by a statutory provision; and
- (b) if held in England, shall be treated as one held by the Secretary of State for the Environment in pursuance of a duty so imposed.
- 14 (1) Subsections (4) to (9) of section 267 of this Act shall apply to a local inquiry held by a commission in Scotland as they apply to an inquiry held under that section.
- (2) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a commission in England as they apply in relation to an inquiry caused to be held by a

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department under subsection (1) of that section, with the substitution for references to a department (other than the first reference in subsection (4)) of references to the Secretary of State for the Environment.

Supplementary

- 15 (1) A- commission may, with the approval of the Ministers and at their expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to the commission to be relevant to a referred matter.
- (2) In this paragraph " 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 this paragraph may, by arrangements made between them, be exercised by either acting on behalf of both.
- 16 Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a commission shall have power to regulate their own procedure.