

Status: Point in time view as at 31/12/2020. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 204. (See end of Document for details)



2011 CHAPTER 25

Part 9

The Planning Appeals Commission

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,

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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.

Modifications etc. (not altering text)

- C1** S. 204 applied in part (31.12.2020 immediately before IP completion day) by S.I. 2012/3038, Sch. 12 para. 3(1) (as amended by [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **42(b)** (with reg. 46))

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- C2** S. 204(1) applied (15.3.2016) by [The Emissions Performance Standard Monitoring and Enforcement Regulations \(Northern Ireland\) 2016 \(S.R. 2016/28\)](#), regs. 1, 12, **Sch. 1**
- C3** S. 204(1)(3)(4) applied (12.11.2020) by [The Greenhouse Gas Emissions Trading Scheme Order 2020 \(S.I. 2020/1265\)](#), art. 2(1), **Sch. 10 para. 4(1)** (with art. 76)
- C4** S. 204(3)-(5) applied (15.3.2016) by [The Emissions Performance Standard Monitoring and Enforcement Regulations \(Northern Ireland\) 2016 \(S.R. 2016/28\)](#), regs. 1, 12, **Sch. 1**

Commencement Information

- I1** S. 204 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** S. 204 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

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