



Town and Country Planning Act 1990

1990 CHAPTER 8

PART XV

MISCELLANEOUS AND GENERAL PROVISIONS

Local inquiries and other hearings

320 Local inquiries.

- (1) The Secretary of State [^{F1}or the Welsh Ministers] may cause a local inquiry to be held for the purposes of the exercise of any of his [^{F2}or their] functions under any of the provisions of this Act.
- (2) Subsections (2) to (5) of section 250 of the ^{M1}Local Government Act 1972 (local inquiries: evidence and costs) apply to an inquiry [^{F3}caused to be held under this section by the Secretary of State; and subsections (2) and (3) of that section apply to an inquiry caused to be held under this section by the Welsh Ministers].
- [^{F4}(3) In its application by subsection (2) to an inquiry [^{F5}caused to be held by the Secretary of State], section 250(4) of that Act has effect as if—
 - (a) after “the costs incurred by him in relation to the inquiry” there were inserted “, or such portion of those costs as he may direct, ”, and
 - (b) after “the amount of the costs so incurred” there were inserted “ or, where he directs a portion of them to be paid, the amount of that portion ”.]

Textual Amendments

- F1** Words in s. 320(1) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 5 para. 12\(2\)\(a\)](#); S.I. 2016/52, art. 4(a) (with art. 17)
- F2** Words in s. 320(1) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 5 para. 12\(2\)\(b\)](#); S.I. 2016/52, art. 4(a) (with art. 17)

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- F3** Words in s. 320(2) substituted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 12(3)**; S.I. 2016/52, art. 4(a) (with art. 17)
- F4** S. 320(3) inserted (1.10.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 2(1)**, 35(1); S.I. 2013/2143, art. 2(b)
- F5** Words in s. 320(3) substituted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 12(4)**; S.I. 2016/52, art. 4(a) (with art. 17)

Modifications etc. (not altering text)

- C1** S. 320 applied by [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9, SIF 123:1\)](#), **s. 89(1)**
- C2** S. 320: power to apply conferred (10.11.1993) by [1993 c. 28](#), **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

Marginal Citations

- M1** [1972 c. 70](#).

321 Planning inquiries to be held in public subject to certain exceptions.

- (1) This section applies to any inquiry held under section 320(1), paragraph 6 of Schedule 6 or paragraph 5 of Schedule 8.
- (2) Subject to subsection (3), at any such inquiry oral evidence shall be heard in public and documentary evidence shall be open to public inspection.
- (3) If the Secretary of State is satisfied in the case of any such inquiry—
 - (a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in subsection (4); and
 - (b) that the public disclosure of that information would be contrary to the national interest,
 he may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry by such persons or persons of such descriptions as he may specify in the direction.
- (4) The matters referred to in subsection (3)(a) are—
 - (a) national security; and
 - (b) the measures taken or to be taken to ensure the security of any premises or property.
- ^{F6}(5) If the Secretary of State is considering giving a direction under subsection (3) the Attorney General may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.
- (6) If before the Secretary of State gives a direction under subsection (3) no person is appointed under subsection (5), the Attorney General may at any time appoint a person as mentioned in subsection (5) for the purposes of the inquiry.
- (7) The Lord Chancellor may by rules make provision—
 - (a) as to the procedure to be followed by the Secretary of State before he gives a direction under subsection (3) in a case where a person has been appointed under subsection (5);

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- (b) as to the functions of a person appointed under subsection (5) or (6).
- (8) Rules made under subsection (7) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) If a person is appointed under subsection (5) or (6) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in subsection (4) (the responsible person) to pay the fees and expenses of the appointed representative.
- (10) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.
- (11) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.
- (12) An amount so certified is recoverable from the responsible person as a civil debt.]

Textual Amendments

- F6** S. 321(5)-(12) inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 80(1), 121** (with s. 111); S.I. 2004/ 2097, {art. 2}; S.I. 2006/1281, **art. 2**

Modifications etc. (not altering text)

- C3** S. 321: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, **art. 3**
- C4** [S. 321](#) functions made exercisable concurrently or jointly with the Welsh Ministers by [2006 c. 32, Sch. 3A para. 1](#) (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 4 para. 1** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(p))

[^{F7}321A Appointed representative: no inquiry

- (1) This section applies if—
- (a) a person is appointed under subsection (5) or (6) of section 321, but
- (b) no inquiry is held as mentioned in subsection (1) of that section.
- (2) Subsections (9) to (12) of section 321 apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.
- (3) For the purposes of subsection (2) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under section 321(9) if an inquiry had been held.
- (4) This section does not affect section 322A.]

Textual Amendments

- F7** S. 321A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 80(2), 121** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**

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[^{F8}321B Special provision in relation to planning inquiries: Wales

- (1) This section applies if the matter in respect of which a local inquiry to which section 321 applies is to be held relates to Wales.
- (2) The references in section 321(5) and (6) to the Attorney General must be read as references to the Counsel General to the [^{F9}Welsh Assembly Government] .
- (3) The Assembly may by regulations make provision as mentioned in section 321(7) in connection with a local inquiry to which this section applies.
- (4) If the Assembly acts under subsection (3) rules made by the Lord Chancellor under section 321(7) do not have effect in relation to the inquiry.
- (5) ^{F10}
- ^{F11}(6)]

Textual Amendments

- F8** S. 321B inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 81(1)**, 121 (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2**
- F9** Words in s. 321B(2) substituted by [Government of Wales Act 2006 \(c. 32\)](#), **ss. 160, 161, Sch. 10 para. 35(a)** (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F10** S. 321B(5) repealed by [Government of Wales Act 2006 \(c. 32\)](#), **ss. 160, 161, 163, Sch. 10 para. 35(b), Sch. 12** (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F11** S. 321B(6) omitted (6.9.2015) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(a), **Sch. 7 para. 4(7)**

^{F12}322 Orders as to costs of parties where no local inquiry held.

- (1) This section applies to proceedings under this Act where the Secretary of State is required, before reaching a decision, to give any person an opportunity of appearing before and being heard by a person appointed by him.

[^{F13}(1A) This section also applies to proceedings under this Act to which section 319A applies.]

^{F14}(1AA)

[^{F15}(1B) Section 250(4) of the Local Government Act 1972 applies to costs incurred by the Secretary of State, or a person appointed by the Secretary of State, in relation to proceedings in England to which this section applies which do not give rise to a local inquiry as it applies to costs incurred in relation to a local inquiry.

- (1C) In its application for that purpose, section 250(4) of that Act has effect as if—
 - (a) after “the costs incurred by him in relation to the inquiry” there were inserted “, or such portion of those costs as he may direct, ”, and

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- (b) after “the amount of the costs so incurred” there were inserted “ or, where he directs a portion of them to be paid, the amount of that portion ”.
- (1D) Section 42 of the Housing and Planning Act 1986 (recovery of Minister's costs) applies to costs incurred in relation to proceedings in England to which this section applies which do not give rise to a local inquiry as it applies to costs incurred in relation to an inquiry.]
- (2) The Secretary of State has the same power to make orders under section 250(5) of the ^{M2}Local Government Act 1972 (orders with respect to the costs of the parties) in relation to proceedings [^{F16}in England] to which this section applies which do not give rise to a local inquiry as he has in relation to a local inquiry.

Textual Amendments

- F12** S. 322 omitted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 6, Sch. 4 paras. 1, 6](#) (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of [S.I. 1991/2698, art. 3](#) and [S.I. 2009/849, art. 2](#) (with [art. 3](#)))
- F13** S. 322(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by [Planning Act 2008 \(c. 29\), ss. 196, 241, Sch. 10 para. 10](#) (with [s. 226](#)); [S.I. 2009/400, art. 3](#)
- F14** S. 322(1AA) omitted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\), s. 58\(2\)\(b\)\(4\)\(b\), Sch. 5 para. 13\(2\)](#); [S.I. 2016/52, art. 4\(a\)](#) (with [art. 17](#))
- F15** S. 322(1B)-(1D) inserted (1.10.2013) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 2\(2\), 35\(1\)](#); [S.I. 2013/2143, art. 2\(b\)](#)
- F16** Words in s. 322(2) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), s. 58\(2\)\(b\)\(4\)\(b\), Sch. 5 para. 13\(3\)](#); [S.I. 2016/52, art. 4\(a\)](#) (with [art. 17](#))

Modifications etc. (not altering text)

- C5** S. 322 amendment to earlier affecting provision 1990 c. 10, s. 37 (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\), art. 1\(2\), Sch. 1 para. 28](#)
- C6** S. 322 amendment to earlier affecting provision 1990 c. 9, s. 89(1) (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\), art. 1\(2\), Sch. 1 para. 21](#)
- C7** S. 322 applied by [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9, SIF 123:1\), s. 89\(1\)](#); applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\), s. 37\(2\)](#); [S.I. 1992/725, arts. 2, 3](#)
S. 322 applied (27.7.1992) by [S.I. 1992/1562, reg. 2, Sch.](#)
S. 322: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)

Commencement Information

- I1** S. 322 omitted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 6, Sch. 4 paras. 1, 6](#) (which temp. omission falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of [S.I. 1991/2698, art. 3](#) and [S.I. 2009/849, art. 2](#) (with [art. 3](#)) thus bringing s. 322 partially into force)

Marginal Citations

- M2** [1972 c. 70.](#)

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^{F17}
322A Orders as to costs: supplementary.

- (1) This section applies where—
- (a) for the purposes of any proceedings [^{F18}in England] under this Act—
 - (i) the Secretary of State is required, before a decision is reached, to give any person an opportunity, or ask any person whether he wishes, to appear before and be heard by a person appointed by him; and
 - (ii) arrangements are made for a local inquiry or hearing to be held;
 - (b) the inquiry or hearing does not take place; and
 - (c) if it had taken place, the Secretary of State or a person appointed by him would have had power to make an order under section 250(5) of the ^{M3}Local Government Act 1972 requiring any party to pay any costs of any other party.

[This section also applies where—

- ^{F19}(1A) (a) arrangements are made for a local inquiry or a hearing to be held pursuant to a determination under section 319A;
- (b) the inquiry or hearing does not take place; and
 - (c) if it had taken place, the Secretary of State or a person appointed by the Secretary of State would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay any costs of any other party.]

^{F20}(1B)

- (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 inquiry or hearing, as if it had taken place.]

[^{F21}(3) Where this section applies in the case of an inquiry or hearing which was to take place in England but did not, section 250(4) of that Act applies to costs incurred by the Secretary of State or a person appointed by the Secretary of State as if—

- (a) in the case of an inquiry, the inquiry had taken place;
- (b) in the case of a hearing, the hearing were an inquiry which had taken place.

(4) In its application for that purpose, section 250(4) of that Act has effect as if—

- (a) after “the costs incurred by him in relation to the inquiry” there were inserted “, or such portion of those costs as he may direct, ”, and
- (b) after “the amount of the costs so incurred” there were inserted “ or, where he directs a portion of them to be paid, the amount of that portion ”.

(5) Section 42 of the Housing and Planning Act 1986 (recovery of Minister's costs) applies to costs incurred in relation to a hearing of the kind referred to in subsection (1) or (1A) which was to take place in England but did not as it applies to costs incurred in relation to an inquiry which was to take place but did not.]

Textual Amendments

F17 S. 322A inserted (2.1.1992 except for certain purposes which exception is *prosp.*) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **ss. 30(1), 84(2)-(4)** (with s. 84(5)); S.I. 1991/2728, **art.3** (subject to [art. 4](#))

F18 Words in s. 322A(1)(a) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 14(2)**; S.I. 2016/52, **art. 4(a)** (with [art. 17](#))

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- F19** S. 322A(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by [Planning Act 2008](#) (c. 29), ss. 196, 241, [Sch. 10 para. 11](#) (with s. 226); S.I. 2009/400, [art. 3](#)
- F20** S. 322A(1B) omitted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by virtue of [Planning \(Wales\) Act 2015](#) (anaw 4), s. 58(2)(b)(4)(b), [Sch. 5 para. 14\(3\)](#); S.I. 2016/52, art. 4(a) (with art. 17)
- F21** S. 322A(3)-(5) inserted (1.10.2013) by [Growth and Infrastructure Act 2013](#) (c. 27), [ss. 2\(3\)](#), 35(1); S.I. 2013/2143, art. 2(b)

Modifications etc. (not altering text)

- C8** S. 322A amendment to earlier affecting provision 1990 c. 9, s. 89(1) (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014](#) (S.I. 2014/2773), art. 1(2), [Sch. 1 para. 21](#)
- C9** S. 322A amendment to earlier affecting provision 1990 c. 10, s. 37 (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014](#) (S.I. 2014/2773), art. 1(2), [Sch. 1 para. 28](#)
- C10** S. 322A applied (6.4.2011) by [The Marine Licensing \(Appeals Against Licensing Decisions\) \(Wales\) Regulations 2011](#) (S.I. 2011/925), regs. 1(2), [18\(3\)](#)
- C11** S. 322A applied (with application in accordance with reg. 2 11 of the amending S.I.) by [The Marine Licensing \(Licence Application Appeals\) Regulations 2011](#) (S.I. 2011/934), regs. 1(b), [18\(3\)](#)
- C12** S. 322A applied (27.7.1992) by S.I. 1992/1562, reg. 2, [Sch.](#)
S. 322A: power to apply conferred (10.11.1993) by 1993 c. 28, [s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)
S. 322A applied (with modifications) (1.6.1997) by S.I. 1997/1160, [reg. 9\(7\)](#)
- C13** S. 322A applied (13.2.2004 for E. and 31.5.2005 for W.) by 1981 c. 69, [Sch. 15 para. 10A\(3\)](#) (as inserted by 2000 c. 37, [ss. 51, 103\(3\)-\(5\)](#), [Sch. 5 Pt. 1 para. 11\(8\)](#); S.I. 2004/292, [art. 2\(d\)\(iii\)](#) (with art. 3(1); S.I. 2005/1314, [art. 2\(a\)\(iii\)](#))
S. 322A applied (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes, 11.5.2006 for W. otherwise, and for E. otherwise prosp.) by 1980 c. 66, [Sch. 6 para. 2B\(3\)](#) (as inserted by 2000 c. 37, [ss. 57, 103\(3\)-\(5\)](#), [Sch. 6 para. 23\(8\)](#); S.I. 2003/272, [art. 2\(p\)](#); S.I. 2005/1314, [art. 3\(d\)\(viii\)\(gg\)](#); S.I. 2006/1279, [art. 2\(l\)\(n\)](#))
S. 322A applied (30.1.2001) by 1981 c. 69, [ss. 28F\(11\)](#), 28L(13) (as substituted (30.1.2001) by 2000 c. 37, [ss. 75\(1\), 103\(2\)](#), [Sch. 9 para. 1](#))
S. 322A applied (E.) (1.2.2002) by S.I. 2001/3966, [art. 15\(10\)](#)
- C14** S. 322A applied (19.8.2002) by [The Environmental Impact Assessment \(Uncultivated Land and Semi-Natural Areas\)\(Wales\) Regulations 2002](#) (S.I. 2002/2127), {reg. 15(10)} (with reg. 17)
S. 322A applied (E.) (1.10.2006) by [The Environmental Impact Assessment \(Agriculture\)\(England\) Regulations 2006](#) (S.I. 2006/2362), {reg. 33(13)}
S. 322A applied (E.) (21.5.2007) by [Wildlife and Countryside Act 1981](#) (c. 69), [Sch. 15 para. 10A\(3\)](#) (as inserted by [Countryside and Rights of Way Act 2000](#) (c. 37), [ss. 51, 103](#), [Sch. 5 para. 11](#)); S.I. 2007/1493, [art. 2](#))
S. 322A applied (W.) (31.10.2007) by [The Environmental Impact Assessment \(Agriculture\) \(Wales\) Regulations 2007](#) (S.I. 2007/2933), [reg. 31\(11\)](#)

Marginal Citations

- M3** 1972 c. 70.

[^{F22}322B] Local inquiries in London: special provision as to costs in certain cases.

(1) This section applies where—

- (a) the local planning authority for a London borough refuse an application for planning permission [^{F23}or permission in principle],

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- (b) that refusal is in compliance with a direction made by the Mayor of London in accordance with provision made in a development order by virtue of section 74(1B)(a), and
 - (c) an appeal against the refusal is made to the Secretary of State under section 78.
- (2) If the Secretary of State causes a local inquiry to be held under section 320(1) to determine the appeal, in its application to the inquiry section 250 of the 1972 Act shall be treated as if—
- (a) for subsection (4) there were substituted the subsection set out at subsection (5) below, and
 - (b) for subsection (5) there were substituted the subsection set out at subsection (6) below.
- (3) If the appeal does not give rise to a local inquiry under section 320, in the application of section 322(2) in relation to the appeal the reference to section 250(5) of the 1972 Act shall be treated as if it were a reference to that provision as modified by subsection (2)(b) above.
- (4) If arrangements are made for a local inquiry in relation to the appeal and the inquiry does not take place, in the application of section 322A in relation to the appeal the reference to section 250(5) of the 1972 Act shall be treated as if it were a reference to that provision as modified by subsection (2)(b) above.
- (5) The subsection referred to in subsection (2)(a) above is as follows—
- (“ Where this subsection applies to an inquiry, the costs incurred by the Secretary of State in relation to the inquiry^{F24}, or such portion of those costs as he may direct,] shall be paid—
- (a) by the Mayor of London, if he is not a party to the inquiry and if the Secretary of State decides that the Mayor acted unreasonably in making the direction in accordance with which the local planning authority refused the planning permission ^{F25}or permission in principle], or
 - (b) if the Mayor is a party or if the Secretary of State does not so decide, by such local authority or party to the inquiry as he may direct;
- and the Secretary of State may cause the amount of the costs so incurred ^{F26}or, where he directs a portion of them to be paid, the amount of that portion] to be certified, and any amount so certified and directed to be paid by the Mayor or by any authority or person shall be recoverable from the Mayor or from that authority or person by the Secretary of State summarily as a civil debt. ”
- (6) The subsection referred to in subsection (2)(b) above is as follows—
- (“ Where this subsection applies to an inquiry, or to costs incurred for the purposes of an inquiry, the Secretary of State may make orders as to the costs of the parties to the inquiry and as to the parties by whom the costs are to be paid; and—
- (a) the parties by whom the costs are ordered to be paid may include the Mayor of London if he is not a party to the inquiry and if the Secretary of State decides that the Mayor acted unreasonably in making the direction in accordance with which the local planning authority refused the planning permission ^{F27}or permission in principle];
 - (b) every such order may be made a rule of the High Court on the application of any party named in the order. ”

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(7) In this section “the 1972 Act” means the Local Government Act 1972.]

Textual Amendments

- F22** S. 322B inserted (3.7.2000) by 1999 c. 29, s. 345 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), Sch.
- F23** Words in s. 322B(1)(a) inserted (13.7.2016) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 12 para. 38(a); S.I. 2016/733, reg. 3(d)
- F24** Words in s. 322B(5) inserted (1.10.2013) by Growth and Infrastructure Act 2013 (c. 27), ss. 2(4)(a), 35(1); S.I. 2013/2143, art. 2(b)
- F25** Words in s. 322B(5) inserted (13.7.2016) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 12 para. 38(b); S.I. 2016/733, reg. 3(d)
- F26** Words in s. 322B(5) inserted (1.10.2013) by Growth and Infrastructure Act 2013 (c. 27), ss. 2(4)(b), 35(1); S.I. 2013/2143, art. 2(b)
- F27** Words in s. 322B(6) inserted (13.7.2016) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 12 para. 38(c); S.I. 2016/733, reg. 3(d)

[^{F28}322C Costs: Wales

- (1) This section applies in relation to any application, appeal or reference under this Act to the Welsh Ministers (whether it is considered at an inquiry or hearing or on the basis of written representations).
- (2) The costs incurred by the Welsh Ministers in relation to the application, appeal or reference (or so much of them as the Welsh Ministers may direct) are to be paid by the applicant, appellant or person making the reference, or such local planning authority or other party to the application, appeal or reference, as the Welsh Ministers may direct.
- (3) Costs incurred by the Welsh Ministers in relation to an application, appeal or reference include the entire administrative cost incurred in connection with it so that, in particular, there shall be treated as costs incurred by the Welsh Ministers such reasonable sum as the Welsh Ministers may determine in respect of general staff costs and overheads of the Welsh Government.
- (4) The costs to which subsection (2) applies include costs in respect of an inquiry or hearing that does not in the event take place and costs incurred in reviewing planning obligations (within the meaning of section 106).
- (5) The Welsh Ministers may by regulations prescribe a standard daily amount for cases involving an inquiry or hearing of any description or cases of any description considered on the basis of representations in writing; and where an inquiry or hearing of that description takes place or a case of that description is considered on the basis of representations in writing, the costs incurred by the Welsh Ministers are to be taken to be—
 - (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which a prescribed person is engaged in dealing with the case;
 - (b) costs actually incurred in connection with dealing with the case on travelling or subsistence allowances or the provision of accommodation or other facilities;
 - (c) any costs attributable to the appointment of prescribed persons to assist in dealing with the case;

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- (d) any legal costs or disbursements incurred or made by or on behalf of the Welsh Ministers in connection with the case.
- (6) The Welsh Ministers may make orders as to the costs of the applicant or appellant or any other party to the application, appeal or reference, and as to the person or persons by whom the costs are to be paid.]

Textual Amendments

F28 S. 322C inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 49, 58(2)(b)(4)(b)**; S.I. 2016/52, art. 2(b) (with art. 16)

Modifications etc. (not altering text)

- C15** S. 322C applied by 1980 c. 66, Sch. 6 para. 2B(4) (as inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 3(c)**; S.I. 2016/52, art. 4(a) (with art. 17))
- C16** S. 322C applied by 1980 c. 66, s. 121(5F) (as inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 2(4)**; S.I. 2016/52, art. 4(a) (with art. 17))
- C17** S. 322C applied by 1981 c. 69, Sch. 15 para. 10A(4) (as inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 5 para. 7(c)**; S.I. 2016/52, art. 4(a) (with art. 17))
- C18** S. 322C applied (W.) (16.5.2017) by [The Environmental Impact Assessment \(Agriculture\) \(Wales\) Regulations 2017 \(S.I. 2017/565\)](#), regs. 1(3), **31(12)** (with reg. 3)
- C19** S. 322C applied (7.1.2019) by [The Sustainable Drainage \(Appeals\) \(Wales\) Regulations 2018 \(S.I. 2018/1181\)](#), regs. 1(2), **13(3)**
- C20** S. 322C applied (7.1.2019) by [The Sustainable Drainage \(Enforcement\) \(Wales\) Order 2018 \(S.I. 2018/1182\)](#), regs. 1(2), **20(3)**

323 Procedure on certain appeals and applications^{F29}: England].

- (1) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings [^{F30}in England] under this Act where he is required, before reaching a decision, to give any person an opportunity of appearing before and being heard by a person appointed by him and which are to be disposed of without an inquiry or hearing to which rules under [^{F31}section 9 of the Tribunals and Inquiries Act 1992] apply.
- [^{F32}(1A) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act which, pursuant to a determination under section 319A, are to be considered on the basis of representations in writing.]
- ^{F33}(1B)
- (2) [^{F34}Regulations under this section may] in particular make provision as to the procedure to be followed—
 - (a) where steps have been taken with a view to the holding of [^{F35}an inquiry or hearing to which rules under section 9 of the Tribunals and Inquiries Act 1992 would apply] which does not take place, or
 - (b) where steps have been taken with a view to the determination of any matter by a person appointed by the Secretary of State and the proceedings are the subject of a direction that the matter shall instead be determined by the Secretary of State, or

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- (c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,
and may provide that such steps shall be treated as compliance, in whole or in part, with the requirements of the regulations.
- (3) [^{F34}Regulations under this section may] also—
- (a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents;
 - (b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Secretary of State to give directions setting the time limit in a particular case or class of case;
 - (c) empower the Secretary of State to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit; and
 - (d) empower the Secretary of State, after giving the parties written notice of his intention to do so, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.
- [^{F36}(4) Regulations made by the Secretary of State under this section may include provision as to the circumstances in which, in proceedings in England such as are mentioned in subsection (1) or (1A)—
- (a) directions may be given under section 250(4) of the Local Government Act 1972 as applied by a prescribed provision of this Act;
 - (b) orders for costs may be made under section 250(5) of that Act as so applied.]

Textual Amendments

- F29** Word in s. 323 heading inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 5 para. 15\(4\)](#); S.I. 2017/546, art. 3(e)
- F30** Words in s. 323(1) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 5 para. 15\(2\)](#); S.I. 2017/546, art. 3(e)
- F31** Words in s. 323(1) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), [Sch. 3 para. 26](#)
- F32** S. 323(1A) inserted (6.4.2009 for certain purposes and otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), ss. 196, 241, [Sch. 10 para. 12\(2\)](#) (with s. 226); S.I. 2009/400, [art. 3](#)
- F33** S. 323(1B) omitted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 5 para. 15\(3\)](#); S.I. 2017/546, art. 3(e)
- F34** Words in s. 323(2)(3) substituted (6.4.2009 for certain purposes) by [Planning Act 2008 \(c. 29\)](#), ss. 196, 241, [Sch. 10 para. 12\(3\)](#) (with s. 226); S.I. 2009/400, art. 3; and as amended (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\)](#), art. 1(2), [Sch. 1 para. 11\(3\)](#)
- F35** Words in s. 323(2)(a) substituted (6.4.2009 for certain purposes and otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), ss. 196, 241, [Sch. 10 para. 12\(4\)](#) (with s. 226); S.I. 2009/400, [art. 3](#)
- F36** S. 323(4) inserted (1.10.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), [ss. 2\(5\)](#), 35(1); S.I. 2013/2143, [art. 2\(b\)](#)

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Modifications etc. (not altering text)

- C21** S. 323 applied by [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9, SIF 123:1\), s. 89\(1\)](#); applied (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\), s. 37\(2\)](#); S.I. 1992/725, [arts. 2, 3](#)
- C22** S. 323: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)
- C23** S. 323 amendment to earlier affecting provision 1990 c. 9, s. 89(1) (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\), art. 1\(2\), Sch. 1 para. 21](#)
- C24** S. 323 amendment to earlier affecting provision 1990 c. 10, s. 37 (11.11.2014) by [The Town and Country Planning \(Determination of Procedure\) \(Wales\) Order 2014 \(S.I. 2014/2773\), art. 1\(2\), Sch. 1 para. 28](#)

[^{F37}323A Procedure for certain proceedings: Wales

- (1) The Welsh Ministers may by regulations prescribe the procedure to be followed in connection with—
- (a) an inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of this Act;
 - (b) proceedings on an application, appeal or reference that, under or by virtue of any provision of this Act, is to be considered by or on behalf of the Welsh Ministers on the basis of representations in writing.
- (2) The regulations may include provision—
- (a) about the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or to the making of representations in writing;
 - (b) about the conduct of proceedings.
- (3) The regulations may include provision about the procedure to be followed—
- (a) where steps have been taken with a view to the holding of an inquiry or hearing which does not take place,
 - (b) where steps have been taken with a view to the determination of any matter by a person appointed by the Welsh Ministers and the proceedings are the subject of a direction that the matter must instead be determined by the Welsh Ministers, or
 - (c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,
- and may provide that such steps are to be treated as compliance, in whole or in part, with the requirements of the regulations.
- (4) The regulations may—
- (a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents,
 - (b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Welsh Ministers to give directions setting the time limit in a particular case or class of case,
 - (c) enable the Welsh Ministers to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and

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- (d) enable the Welsh Ministers, after giving the parties written notice of their intention to do so, to proceed to a decision even though no written representations were made within the time limit, if it appears to them that they have sufficient material before them to enable them to reach a decision on the merits of the case.
- (5) The regulations may also make provision as to the circumstances in which—
 - (a) a direction under section 322C(2) may be given;
 - (b) an order for costs under section 322C(4) may be made.
- (6) The Welsh Ministers may by regulations provide that in prescribed circumstances a matter may not be raised in proceedings on an appeal made under or by virtue of this Act to the Welsh Ministers unless it has been previously raised before a prescribed time or it is shown that it could not have been raised before that time.]

Textual Amendments

F37 S. 323A inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 50, 58(2)(b)(4)(b)**; [S.I. 2016/52](#), art. 3(c); [S.I. 2017/546](#), art. 3(c)

Status:

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Changes to legislation:

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