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**Changes to legislation:** Town and Country Planning (Scotland) Act 1997, SCHEDULE 6 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 6

Section 69(4).

#### PLANNING INQUIRY COMMISSIONS

##### *Constitution*

- 1 (1) A Planning Inquiry Commission (“a commission”) shall consist of a chairman and not less than 2 nor more than 4 other members appointed by the Secretary of State.
- (2) The Secretary of State may—
- (a) pay to the members of a commission such remuneration and allowances as he may with the consent of the Treasury determine, and
  - (b) provide for a 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.
- (3) The validity of any proceedings of a commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

##### *References*

- 2 (1) Two or more of the matters mentioned in section 69(2) may be referred to the same commission if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- (2) Where a matter referred to a commission under section 69(2) 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.
- (3) On referring a matter to a commission under section 69(2), the responsible Minister or Ministers—
- (a) shall state in the reference the reasons for the reference, and
  - (b) may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.

##### *Procedure on reference*

- 3 (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 section 69(2) may be made at any time before, but not after, the determination of the relevant application referred under section 46 or the relevant appeal under section 47 or, as the case may be, the giving of the relevant direction under section 57.

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- (3) The fact that an inquiry or other hearing has been held into a proposal by a person appointed by any Minister for the purpose shall not prevent a reference of the proposal to a commission.
- (4) Notice of the making of a reference to a commission shall be published in the prescribed manner.
- (5) A copy of the notice shall be served on the 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 46 or an appeal under section 47, 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 38(1) or (2);
  - (b) in the case of a proposal that a direction should be given under section 57 with respect to any development, on the local authority or statutory undertakers applying for authorisation to carry out that development.
- (6) Subject to the provisions of this Schedule and to any directions given to them by the responsible Minister or Ministers, a commission shall have power to regulate their own procedure.

#### *Functions on reference*

- 4 (1) A commission inquiring into a matter referred to them under section 69(2) 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
  - (b) assess the importance to be attached to those considerations or aspects.
- (2) If—
  - (a) in the case of a matter mentioned in section 69(2)(a), (b) or (c), the applicant, or
  - (b) in any case, the planning authority,
 so wish, the commission shall give to each of them, and, in the case of an application or appeal mentioned in section 69(2)(a) or (b), also 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 38(1) or (2), an opportunity of appearing before and being heard by one or more members of the commission.
- (3) The commission shall then report to the responsible Minister or Ministers on the matter referred to them.
- (4) A 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.

#### *Local inquiries held by commission*

- 5 (1) A commission shall, for the purpose of complying with paragraph 4(2), hold a local inquiry.

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- (2) They may hold such an inquiry, if they think it necessary for the proper discharge of their functions, although neither the applicant nor the planning authority wish an opportunity to appear and be heard.
- (3) Where a commission are to hold a local inquiry under this paragraph 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 paragraph 4 and this paragraph 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.
- (4) An inquiry held by a commission under this paragraph shall be treated for the purposes of the <sup>M1</sup>Tribunals and Inquiries Act 1992 as one held by a Minister in pursuance of a duty imposed by a statutory provision.

[<sup>F1</sup>(4A) <sup>F2</sup>.....]

- (5) Subsections (4) to (13) of section 265 (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.

*“ The responsible Minister or Ministers ”*

**Textual Amendments**

- F1** Sch. 6 para. 5(4A) inserted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 50](#); S.I. 2007/2709, art. 3(b)(i)
- F2** Sch. 6 para. 5(4A) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 17\(a\)](#)

**Marginal Citations**

- M1** 1992 c. 53.

- 6 (1) In section 69 and this Schedule “the responsible Minister or Ministers” means, in relation to a matter specified in column 1 of the following Table (matters which may be referred to a Planning Inquiry Commission under section 69(2)), the Minister or Ministers specified opposite in column 2.
- (2) Where an entry in column 2 of the Table specifies two or more Ministers, that entry shall be construed as referring to those Ministers acting jointly.

TABLE

Referred Matter	Responsible Minister or Ministers
1. Application for planning permission or appeal under section 47— (a) relating to land to which section 218(1) applies; (b) relating to other land.	(a) the Secretary of State and the appropriate Minister (if different); (b) the Secretary of State.

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2. Proposal that a government department should give a direction under section 57(1) or that development should be carried out by or on behalf of a government department.

The Secretary of State and the Minister (if different) in charge of the government department concerned.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)