

Status: Point in time view as at 19/09/2013.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, SCHEDULE 7 is up to date with all changes known to be in force on or before 16 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)

SCHEDULES

SCHEDULE 7 **E+W+S**

Section 70(4).

JOINT PLANNING INQUIRY COMMISSIONS

Constitution

- 1 (1) A Joint Planning Inquiry Commission (a “joint commission”) shall consist of a chairman and not less than 2 nor more than 4 other members appointed by the Ministers.
- (2) The Ministers may—
 - (a) pay to the members of a joint commission such remuneration and allowances as they may with the consent of the Treasury determine, and
 - (b) provide for a joint 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.
- (3) The validity of any proceedings of a joint 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 70(2) (“referred matters”) may be referred to the same joint commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- (2) 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.
- (3) On referring a matter to a joint commission, the responsible Ministers—
 - (a) shall state in the reference the reasons for it, and
 - (b) may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.

Procedure on reference

- 3 (1) A reference to a joint 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 70(2) 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,

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notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

- (3) Notice of the making of a reference to a joint commission shall be published in the prescribed manner.
- (4) A copy of the notice shall be served on the planning authority for the district, or as the case may be the local planning authority for the area, in which it is proposed that the relevant development shall be carried out.
- (5) In the case of an application for planning permission referred under section 46 of this Act or section 77 of the 1990 Act or an appeal under section 47 of this Act or section 78 of the 1990 Act, 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 planning authority are required to take into account under section 38(1) or (2) of this Act or, as the case may be, the local planning authority are required to take into account under section 71(1) or (2) of the 1990 Act.
- (6) In the case of a proposal that a direction should be given by a government department under section 57(1) of this Act or section 90(1) of the 1990 Act 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.
- (7) Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a joint commission shall have power to regulate their own procedure.
- (8) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State and the [^{F1}Secretary of State for Transport] jointly in the exercise of their respective powers under this Act and the 1990 Act.

Textual Amendments

F1 Words in [Sch. 7 para. 3\(8\)](#) substituted (25.11.2002) by [S.I. 2002/2626, art. 20, Sch. 2 para. 22](#)

Functions on reference

- 4 A joint commission inquiring into a referred matter 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,
 - (b) assess the importance to be attached to those considerations or aspects,
 - (c) give to persons an opportunity of appearing before, and being heard by, one or more members of the commission in accordance with paragraph 5, and
 - (d) report to the responsible Ministers on the matter.
- 5 A joint commission shall give an opportunity of appearing and being heard by one or more of its members to—
 - (a) in any case, the planning authority or, as the case may be, the local planning authority, if the authority so wish,

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- (b) in the case of a matter mentioned in section 69(2)(a), (b) or (c) of this Act or section 101(2)(a), (b) or (c) of the 1990 Act, the applicant, if he so wishes, and
 - (c) in the case of an application or appeal mentioned in section 69(2)(a) or (b) of this Act or section 101(2)(a) or (b) of the 1990 Act, any person who has made representations relating to the subject matter of the application or appeal which the planning authority are required to take into account under section 38(1) or (2) of this Act or, as the case may be, the local planning authority are required to take into account under section 71(1) or (2) of the 1990 Act.
- 6 A joint commission may, with the approval of the Ministers and at their expense, arrange for the carrying out, by themselves or others, of research of any kind appearing to them to be relevant to a referred matter.
- 7 The provisions of sections 46(5) and 48(2) of this Act and sections 77(5) and 79(2) of the 1990 Act and the provisions of Schedule 4 to this Act and Schedule 6 to the 1990 Act, relating to the giving 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 joint commission.

Local inquiries

- 8 (1) A joint commission shall, for the purpose of complying with paragraph 5, hold a local inquiry.
- (2) A joint commission 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 or, as the case may be, the local planning authority wish an opportunity to appear and be heard.
- (3) Where a joint 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.
- (4) For the purposes of the ^{M1}Tribunals and Inquiries Act 1992 a local inquiry held by a joint 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 [^{F2}the Secretary of State for Transport] in pursuance of a duty so imposed.

[^{F3}(4A) ^{F4}.....]

- (5) Subsections (4) to (13) of section 265 shall apply to a local inquiry held by a joint commission in Scotland as they apply to an inquiry held under that section.
- (6) Subsections (2) to (5) of section 250 of the ^{M2}Local Government Act 1972 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a joint commission in England as they apply in relation to an inquiry caused to be held by a Minister under subsection (1) of that section, with the substitution for

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references to a Minister causing the inquiry to be held (other than the first reference in subsection (4)) of references to the responsible Ministers.

Textual Amendments

- F2** Words in Sch. 7 para. 8(4)(b) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 22**
- F3** Sch. 7 para. 8(4A) inserted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 8 para. 51**; S.I. 2007/2709, art. 3(b)(i)
- F4** Sch. 7 para. 8(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(b)**

Marginal Citations

- M1** 1992 c. 53.
- M2** 1972 c. 70.

Interpretation

9 In this Schedule—

“the 1990 Act” means the ^{M3}Town and Country Planning Act 1990;

“the Ministers” has the meaning given in section 70(3), except that their functions under paragraphs 1(2) and 6 may, by arrangements between them, be exercised by either acting on behalf of both; and

“the responsible Ministers” means, in relation to a matter specified in column 1 of the following Table (matters which may be referred to a Joint Planning Inquiry Commission under section 70(2)), those specified opposite in column 2, acting jointly.

TABLE

Referred Matter	Responsible Ministers
1. Application for planning permission or appeal under section 47 of this Act— (a) relating to land to which section 218(1) of this Act or section 266(1) of the 1990 Act applies;	(a) 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).
(b) relating to other land.	(b) 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 57(1) of this Act or section 90(1) of the 1990 Act, or that development should be carried	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

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out by or on behalf of a government department. charge of the government department concerned.

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M3 1990 c. 8.

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