

SCHEDULES

SCHEDULE 11

PLANNING : MINOR AND CONSEQUENTIAL AMENDMENTS

PART II

SCOTLAND

Recovery of expenses of local inquiry

- 39 (1) For subsection (7) of section 267 (local inquiries) of the Town and Country Planning (Scotland) Act 1972 and subsections (7) and (8) of section 210 (power to direct inquiries) of the Local Government (Scotland) Act 1973 substitute—
- “(7) The Minister may make orders as to the expenses incurred—
- (a) by the Minister in relation to—
 - (i) the inquiry;
 - (ii) arrangements made for an inquiry which does not take place ; and
 - (b) by the parties to the inquiry,
- and as to the parties by whom any of the expenses mentioned in paragraphs (a) and (b) above shall be paid.
- (7A) What may be recovered by the Minister is the entire administrative expense of the inquiry, so that, in particular—
- (a) there shall be treated as expenses incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff expenses and overheads of his department, and
 - (b) there shall be treated as expenses incurred by the Minister holding the inquiry any expenses incurred in relation to the inquiry by any other Minister or Government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff expenses and overheads.
- (7B) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—
- (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 the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,
 - (b) expenses actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry, and

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- (c) any expenses attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and
 - (d) any legal expenses or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.”.
- (2) After subsection (7B) of the said section 210 of the Local Government (Scotland) Act 1973 insert—

“(8) Where the Minister has made an order under subsection (7) of this section requiring any party to pay expenses to him he shall certify the amount of the expenses, and any amount so certified shall be a debt due by that party to the Crown and shall be recoverable accordingly.”.

- (3) In subsection (1) of section 233 of the Local Government (Scotland) Act 1973 (orders, rules and regulations), after " 104(1)" insert " 210(7) ".
- (4) After section 210 of the Local Government (Scotland) Act 1973 insert—

“210A Recovery of expenses of local inquiry.

- (1) The following provisions of this section apply where a Minister is authorised under or by virtue of any of the following statutory provisions to recover expenses incurred by him in relation to an inquiry—
- section 129(1)(d) of the Road Traffic Regulation Act 1984 (expenses of inquiry under that Act),
 - any other statutory provision to which this section is applied by order of the Minister.
- (2) What may be recovered by the Minister is the entire administrative expense of the inquiry, so that, in particular—
- (a) there shall be treated as expenses incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff expenses and overheads of his department, and
 - (b) there shall be treated as expenses incurred by the Minister holding the inquiry any expenses incurred in relation to the inquiry by any other Minister or Government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff expenses and overheads.
- (3) The expense of an inquiry which does not take place may be recovered by the Minister from any person who would have been a party to the inquiry to the same extent, and in the same way, as the expense of an inquiry which does take place.
- (4) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—
- (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 the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry.
 - (b) expenses actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry,

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- (c) any expenses attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and
 - (d) any legal expenses or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.
- (5) An order or regulation under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order applying this section to a statutory provision may provide for the consequential repeal of so much of that provision, or any other provision, as restricts the sum recoverable by the Minister in respect of the services of any officer engaged in the inquiry or is otherwise inconsistent with the application of the provisions of this section.”.