



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART XIV

#### MISCELLANEOUS AND GENERAL PROVISIONS

##### *Local inquiries and other hearings*

#### **265 Local inquiries**

- (1) Subject to the provisions of this section, the Minister may cause a local inquiry to be held for the purposes of the exercise of any of his functions under this Act.
- (2) The Minister shall appoint a person to hold the inquiry and to report on it to him.
- (3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct.
- (4) Subject to subsections (5) and (6), the person appointed to hold the inquiry may, on the motion of any party to it or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry.
- (5) No person shall be required in obedience to such a notice to attend at any place which is more than 10 miles from the place where he resides unless the necessary expenses are paid or tendered to him.
- (6) Nothing in subsection (4) shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

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*Status: This is the original version (as it was originally enacted).*

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- (7) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in place of evidence on oath by any person, a statement in writing by that person.
- (8) Any person who—
- (a) refuses or wilfully neglects to attend in obedience to a notice under subsection (4) or to give evidence, or
  - (b) wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required to produce by any such notice,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale or to imprisonment for a period not exceeding 3 months.
- (9) The Minister may make orders as to the expenses incurred—
- (a) by the Minister in relation to—
    - (i) the inquiry, and
    - (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) shall be paid.
- (10) 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.
- (11) 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,
  - (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.
- (12) Any order of the Minister under subsection (9) requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

- (13) In this section, except where the context otherwise requires, “Minister” means the Secretary of State, or any other Minister authorised under this Act to hold a local inquiry.

#### **266 Orders as to expenses 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 afford any person an opportunity of appearing before and being heard by a person appointed by him.
- (2) The Secretary of State has the same power to make orders under section 265(9) in relation to proceedings to which this section applies which do not give rise to a local inquiry as he has in relation to a local inquiry.

#### **267 Procedure on certain appeals and applications**

- (1) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act where he is required, before reaching a decision, to afford 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 section 9 of the Tribunals and Inquiries Act 1992 apply.
- (2) The regulations 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 such an inquiry or hearing 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
  - (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) The regulations may also—
- (a) provide for a time limit within which any party to the proceedings must lodge written submissions 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 submissions and supporting documents as were lodged 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 submissions were lodged 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.

## **268 Inquiries under Private Legislation Procedure (Scotland) Act 1936**

- (1) Where the Ministers concerned so direct—
  - (a) any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and
  - (b) any hearing in connection with—
    - (i) an appeal against the refusal, or the grant, subject to conditions, of an application by statutory undertakers for planning permission to develop operational land,
    - (ii) such an application made by statutory undertakers and referred to the Secretary of State, or
    - (iii) the revocation or modification of planning permission to develop operational land granted to statutory undertakers,shall be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936.
- (2) Any such direction shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945.
- (3) Subsections (5), (6) and (7) of section 231 shall not apply to an order mentioned in subsection (1)(a).
- (4) Nothing in subsections (2) to (13) of section 265 shall apply to any inquiry to which subsection (1)(a) applies.
- (5) The provisions of the Statutory Orders (Special Procedure) Act 1945 in relation to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything contained in that Act, not apply to any order under this Act which is subject to special parliamentary procedure.