



2011 CHAPTER 25

PART 14

MISCELLANEOUS AND GENERAL PROVISIONS

Inquiries

Local inquiries

231.—(1) The Department may cause a public local inquiry to be held for the purpose of the exercise of any of its functions under this Act.

(2) Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (c. 33) applies in relation to a public local inquiry held under this Act as it applies in relation to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act.

(3) Without prejudice to the provisions of Schedule A1 to the Interpretation Act (Northern Ireland) 1954, the Department may make rules regulating the procedure (except the procedure in relation to any matter for which rules under subsection (3) of section 233, subsection (3) of section 234 or subsection (2) or (5) of section 235 may make provision) to be followed in connection with inquiries held by or on behalf of the Department under this Act.

(4) Rules made under subsection (3) shall be subject to negative resolution.

Inquiries to be held in public subject to certain exceptions

232.—(1) Subject to subsections (2) and (4), at any public local inquiry or independent examination held under this Act oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(2) If the Secretary of State is satisfied in the case of any public local inquiry or independent examination—

- (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 (3); and
- (b) that the public disclosure of that information would be contrary to the national interest,

the Secretary of State 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 or examination by such persons or persons of such descriptions as may be specified in the direction.

(3) The matters referred to in subsection (2)(a) are—

- (a) national security;
- (b) the measures taken or to be taken to ensure the security of any premises or property belonging to Her Majesty in right of the Crown or belonging to a department of the government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department;
- (c) the measures taken or to be taken to ensure the security of any premises or property which is used for the purposes of the armed forces of the Crown or the Ministry of Defence Police.

(4) If the Department of Justice is satisfied in the case of any public local inquiry or independent examination—

- (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 (5); and
- (b) that the public disclosure of that information would be contrary to the public interest,

the Department of Justice 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 or examination by such persons or persons of such descriptions as may be specified in the direction.

(5) The matters referred to in subsection (4)(a) are the measures taken or to be taken to ensure the security of any premises or property (other than premises or property mentioned in subsection (3)(b) or (c)) except where those matters are matters of national security.

Directions: Secretary of State

233.—(1) If the Secretary of State is considering giving a direction under section 232(2), the Advocate General for Northern Ireland may appoint a person

to represent the interests of any person who will be prevented from hearing or inspecting any evidence at any inquiry or examination if the direction is given.

(2) If before the Secretary of State gives a direction under section 232(2) no person is appointed under subsection (1), the Advocate General for Northern Ireland may at any time appoint a person as mentioned in subsection (1) for the purposes of the inquiry or examination.

(3) The Lord Chancellor may by rules make provision—

(a) as to the procedure to be followed by the Secretary of State before a direction is given under section 232(2) in a case where a person has been appointed under subsection (1);

(b) as to the functions of a person appointed under subsection (1) or (2).

(4) Rules made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(5) If a person is appointed under subsection (1) or (2) (the appointed representative) the Secretary of State may direct any person who the Secretary of State thinks is interested in the inquiry or examination in relation to a matter mentioned in section 232(3) (the responsible person) to pay the fees and expenses of the appointed representative.

(6) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount shall be determined by the Secretary of State.

(7) The Secretary of State shall cause the amount agreed between the appointed representative and the responsible person or determined by the Secretary of State to be certified.

(8) An amount so certified is recoverable from the responsible person as a civil debt.

Directions: Department of Justice

234.—(1) If the Department of Justice is considering giving a direction under section 232(4) 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 any inquiry or examination if the direction is given.

(2) If before the Department of Justice gives a direction under section 232(4) no person is appointed under subsection (1), the Attorney General may at any time appoint a person as mentioned in subsection (1) for the purposes of the inquiry or examination.

(3) The Department of Justice may by rules make provision—

- (a) as to the procedure to be followed by that Department before a direction is given under section 232(4) in a case where a person has been appointed under subsection (1);
- (b) as to the functions of a person appointed under subsection (1) or (2).
- (4) Rules made under subsection (3) shall be subject to negative resolution.
- (5) If a person is appointed under subsection (1) or (2) (the appointed representative) the Department of Justice may direct any person who that Department thinks is interested in the inquiry or examination in relation to a matter mentioned in section 232(5) (the responsible person) to pay the fees and expenses of the appointed representative.
- (6) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount shall be determined by the Department of Justice.
- (7) The Department of Justice shall cause the amount agreed between the appointed representative and the responsible person or determined by that Department to be certified.
- (8) An amount so certified is recoverable from the responsible person as a civil debt.

National security

235.—(1) Where, in relation to an application for planning permission or an application for any consent or approval under this Act or a development order, the Secretary of State is of the opinion—

- (a) that the consideration by the council or, as the case may be, the Department of the Environment of the application or of any representations or objections made in respect of the application raises matters relating to—
 - (i) national security;
 - (ii) the measures taken or to be taken to ensure the security of any premises or property belonging to Her Majesty in right of the Crown or belonging to a department of the government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department;
 - (iii) the measures taken or to be taken to ensure the security of any premises or property which is used for the purposes of the armed forces of the Crown or the Ministry of Defence Police; and
- (b) that the public disclosure of information as to any of those matters would be contrary to the national interest,

the Secretary of State may certify that the application is one to which this subsection applies.

- (2) The Secretary of State may by rules make provision—

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

- (a) for the procedure to be followed in relation to the issue of a certificate under subsection (1);
 - (b) enabling the Department of the Environment to dispense with an inquiry where that Department or the relevant council has not received any objections or representations in respect of an application to which subsection (1) applies or where every objection or representation made in respect of such an application is withdrawn.
- (3) Rules made under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.
- (4) Where, in relation to an application for planning permission or an application for any consent or approval under this Act or a development order, the Department of Justice is of the opinion—
- (a) that the consideration by the council or, as the case may be, the Department of the Environment of the application or of any representations or objections made in respect of the application raises matters relating to the measures taken or to be taken to ensure the security of any premises or property, other than premises or property mentioned in subsection (1)(a) (ii) or (iii); and
 - (b) that the public disclosure of information as to any of those matters would be contrary to the public interest,
- the Department of Justice may certify that the application is one to which this subsection applies.
- (5) The Department of Justice may by rules make provision—
- (a) for the procedure to be followed in relation to the issue of a certificate under subsection (4);
 - (b) enabling the Department of the Environment to dispense with an inquiry where that Department or the relevant council has not received any objections or representations in respect of an application to which subsection (4) applies or where every objection or representation made in respect of such an application is withdrawn.
- (6) Rules made under subsection (5) shall be subject to negative resolution.