



Planning and Compulsory Purchase Act 2004

2004 CHAPTER 5

PART 7

CROWN APPLICATION OF PLANNING ACTS

CHAPTER 1

ENGLAND AND WALES

National security

80 Special provision relating to national security

- (1) In section 321 of the principal Act (planning inquiries to be held in public subject to certain exceptions) after subsection (4) there are inserted the following subsections—
- “(5) If the Secretary of State is considering giving a direction under subsection (3) 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 a local inquiry if the direction is given.
- (6) If before the Secretary of State gives a direction under subsection (3) no person is appointed under subsection (5), the Attorney General may at any time appoint a person as mentioned in subsection (5) for the purposes of the inquiry.
- (7) The Lord Chancellor may by rules make provision—
- (a) as to the procedure to be followed by the Secretary of State before he gives a direction under subsection (3) in a case where a person has been appointed under subsection (5);
 - (b) as to the functions of a person appointed under subsection (5) or (6).

Status: This is the original version (as it was originally enacted).

- (8) Rules made under subsection (7) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
 - (9) If a person is appointed under subsection (5) or (6) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in subsection (4) (the responsible person) to pay the fees and expenses of the appointed representative.
 - (10) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.
 - (11) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.
 - (12) An amount so certified is recoverable from the responsible person as a civil debt.”
- (2) After section 321 of the principal Act (planning inquiries to be held in public subject to certain exceptions) there is inserted the following section—

“321A Appointed representative: no inquiry

- (1) This section applies if—
 - (a) a person is appointed under subsection (5) or (6) of section 321, but
 - (b) no inquiry is held as mentioned in subsection (1) of that section.
 - (2) Subsections (9) to (12) of section 321 apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.
 - (3) For the purposes of subsection (2) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under section 321(9) if an inquiry had been held.
 - (4) This section does not affect section 322A.”
- (3) In Schedule 3 to the listed buildings Act (determination of certain appeals by person appointed by the Secretary of State) after paragraph 6 there is inserted the following paragraph—
- “6A (1) If the Secretary of State is considering giving a direction under paragraph 6(6) 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 a local inquiry if the direction is given.
 - (2) If before the Secretary of State gives a direction under paragraph 6(6) no person is appointed under sub-paragraph (1), the Attorney General may at any time appoint a person as mentioned in sub-paragraph (1) for the purposes of the inquiry.
 - (3) The Lord Chancellor may by rules make provision—
 - (a) as to the procedure to be followed by the Secretary of State before he gives a direction under paragraph 6(6) in a case where a person has been appointed under sub-paragraph (1);

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- (b) as to the functions of a person appointed under sub-paragraph (1) or (2).
 - (4) If a person is appointed under sub-paragraph (1) or (2) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in paragraph 6(7) (the responsible person) to pay the fees and expenses of the appointed representative.
 - (5) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.
 - (6) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.
 - (7) An amount so certified is recoverable from the responsible person as a civil debt.
 - (8) Rules made under sub-paragraph (3) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
 - (9) Sub-paragraph (10) applies if—
 - (a) a person is appointed under sub-paragraph (1) or (2), but
 - (b) no inquiry is held as mentioned in paragraph 6(1).
 - (10) Sub-paragraphs (4) to (7) above apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.
 - (11) For the purposes of sub-paragraph (10) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under sub-paragraph (4) if an inquiry had been held.
 - (12) Sub-paragraphs (9) to (11) do not affect paragraph 6(8).”
- (4) In the Schedule to the hazardous substances Act (determination of certain appeals by person appointed by the Secretary of State) after paragraph 6 there is inserted the following paragraph—
- “6A (1) If the Secretary of State is considering giving a direction under paragraph 6(6) 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 a local inquiry if the direction is given.
- (2) If before the Secretary of State gives a direction under paragraph 6(6) no person is appointed under sub-paragraph (1), the Attorney General may at any time appoint a person as mentioned in sub-paragraph (1) for the purposes of the inquiry.
- (3) The Lord Chancellor may by rules make provision—
- (a) as to the procedure to be followed by the Secretary of State before he gives a direction under paragraph 6(6) in a case where a person has been appointed under sub-paragraph (1);

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

- (b) as to the functions of a person appointed under sub-paragraph (1) or (2).
- (4) If a person is appointed under sub-paragraph (1) or (2) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry in relation to a matter mentioned in paragraph 6(7) (the responsible person) to pay the fees and expenses of the appointed representative.
- (5) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the Secretary of State.
- (6) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.
- (7) An amount so certified is recoverable from the responsible person as a civil debt.
- (8) Rules made under sub-paragraph (3) must be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Sub-paragraph (10) applies if—
 - (a) a person is appointed under sub-paragraph (1) or (2), but
 - (b) no inquiry is held as mentioned in paragraph 6(1).
- (10) Sub-paragraphs (4) to (7) above apply in respect of the fees and expenses of the person appointed as if the inquiry had been held.
- (11) For the purposes of sub-paragraph (10) the responsible person is the person to whom the Secretary of State thinks he would have given a direction under sub-paragraph (4) if an inquiry had been held.
- (12) Sub-paragraphs (9) to (11) do not affect paragraph 6(8).”

81 Special provision relating to national security: Wales

- (1) After section 321A of the principal Act (inserted by section 80 above) there is inserted the following section—

“321B Special provision in relation to planning inquiries: Wales

- (1) This section applies if the matter in respect of which a local inquiry to which section 321 applies is to be held relates to Wales.
- (2) The references in section 321(5) and (6) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.
- (3) The Assembly may by regulations make provision as mentioned in section 321(7) in connection with a local inquiry to which this section applies.
- (4) If the Assembly acts under subsection (3) rules made by the Lord Chancellor under section 321(7) do not have effect in relation to the inquiry.

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

- (5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).
- (6) Section 333(3) does not apply to regulations made under subsection (4).”
- (2) In Schedule 3 to the listed buildings Act (determination of certain appeals by person appointed by the Secretary of State), after paragraph 7 there is inserted the following paragraph—

“Local inquiries: Wales

- 8 (1) This paragraph applies in relation to a local inquiry held in pursuance of this Schedule if the matter in respect of which the inquiry is to be held relates to Wales.
- (2) The references in paragraph 6A(1) and (2) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.
- (3) The Assembly may by regulations make provision as mentioned in paragraph 6A(3) in connection with a local inquiry to which this section applies.
- (4) If the Assembly acts under sub-paragraph (3) rules made by the Lord Chancellor under paragraph 6A(3) do not have effect in relation to the inquiry.
- (5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).
- (6) Section 93(3) does not apply to regulations made under this paragraph.”
- (3) In the Schedule to the hazardous substances Act, after paragraph 7 there is inserted the following paragraph—

“Local inquiries: Wales

- 8 (1) This paragraph applies in relation to a local inquiry held in pursuance of this Schedule if the matter in respect of which the inquiry is to be held relates to Wales.
- (2) The references in paragraph 6A(1) and (2) to the Attorney General must be read as references to the Counsel General to the National Assembly for Wales.
- (3) The Assembly may by regulations make provision as mentioned in paragraph 6A(3) in connection with a local inquiry to which this section applies.
- (4) If the Assembly acts under sub-paragraph (3) rules made by the Lord Chancellor under paragraph 6A(3) do not have effect in relation to the inquiry.

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

- (5) The Counsel General to the National Assembly for Wales is the person appointed by the Assembly to be its chief legal adviser (whether or not he is known by that title).
- (6) Section 40(3) does not apply to regulations made under this paragraph.”