

# PLANNING ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 6, Chapter 2: The Panel Procedure**

##### ***Section 64: Panel for each application to be handled under this Chapter***

138. This section provides that when the Commission has accepted an application and the chair has decided that it should be handled by a Panel, the provisions in Chapter 2 will apply.

##### ***Section 65: Appointment of members, and lead member, of Panel***

139. This section concerns the appointment of the Panel. Subsection (1) provides that the chair of the Commission will be responsible for appointing to the Panel three or more Commissioners and appointing one of these Commissioners to chair the Panel. Before doing this the chair of the Commission must consult the other Commissioners and the chief executive of the Commission and have regard to their views.
140. Subsection (3) provides that the chair (or deputy chair) of the Commission may appoint himself to be a member of a Panel.

##### ***Section 66: Ceasing to be member, or lead member, of Panel***

141. This section describes the circumstances in which a person ceases to be a member of the Panel. Subsection (1) provides that the person will cease to be a member of the Panel if he ceases to be a Commissioner, subject to section 67.
142. Subsection (3) provides that a person may resign from membership of the Panel by giving notice in writing to the Commission.
143. Subsection (5) sets out the circumstances in which the chair may remove a person from membership of the Panel or remove the lead member from that office. The chair must be satisfied that the member or lead member is unable, unwilling or unfit to perform his duties.

##### ***Section 67: Panel member continuing though ceasing to be Commissioner***

144. This section provides that if, immediately before ceasing to be a Commissioner, a Commissioner was serving on a Panel which has not yet concluded its business, the Commissioner may decide to continue as a Panel member until the Panel completes its work, unless the reason that he is no longer a Commissioner is because the Secretary of State has removed him from office because he was unable, unwilling or unfit to perform the duties of his office.

***Section 68: Additional appointments to Panel***

145. This requires the chair to the Commission to appoint another Commissioner to membership of the Panel if at any time the Panel has fewer than three members. The chair (or a deputy chair) may appoint himself.

***Section 69: Replacement of lead member of Panel***

146. This section provides that if the lead member of the Panel ceases to hold that office, the chair to the Commission must appoint another member of the Panel to chair the Panel. This person need not have been a member of the Panel before the vacancy arose. The chair (or a deputy chair) to the Commission can appoint himself.

***Section 70: Membership of Panel where application relates to land in Wales***

147. This section concerns applications for orders granting development consent, which relate to land in Wales. The section requires a Panel that considers an application relating to land in Wales to include, if reasonably practicable, a Commissioner who was nominated for appointment as a Commissioner by the Welsh Ministers or any other Commissioner notified to the Commission by the Welsh Ministers as being a Commissioner who should be treated as a Welsh Commissioner nominated by them.

***Section 71: Supplementary provision where Panel replaces single Commissioner***

148. This section provides that if the chair of the Commission decides that an application which was being considered by a single Commissioner should instead be considered by a Panel, the single Commissioner who has considered the case may become a member of the Panel. Subsection (3) provides that the Panel may decide to treat anything done by a single Commissioner as done by the Panel. If the Panel decides to do this, the lead member of the Panel must ensure that the Panel acquires the necessary knowledge of the previous work undertaken.

***Section 72: Panel ceasing to have any members***

149. This section provides that if the Panel ceases to have any members, a new Panel must be constituted. If this happens, the new Panel may decide to treat anything done by a former Panel as done by the new Panel. If it is decided to do this, the lead member of the Panel must ensure that the Panel acquires the necessary knowledge of the previous work undertaken.

***Section 73: Consequences of changes in Panel***

150. This section provides that the identity of the Panel will not be affected by changes to the membership of the Panel or the lead member, or any vacancies.

***Section 74: Panel to decide, or make recommendation in respect of, application***

151. This section sets out the Panel's role in relation to applications. Where there is an effective national policy statement in respect of the type of development to which an application relates, the Commission is responsible for examining and deciding the application. In any other case, the Panel will examine the application, and then make a report to the Secretary of State which sets out its findings and conclusions and makes a recommendation about the decision to be made by the Secretary of State. The Secretary of State will then be responsible for deciding the application,

***Section 75: Decision-making by the Panel***

152. This section provides that a decision of the Panel will require the agreement of a majority of its members and that the lead member has a second (or casting) vote.

***Section 76: Allocation within Panel of Panel's functions***

153. This section provides that during the examination of an application the Panel may allocate part of the examination to any one or more of its members. Where this is done the member/s may do anything the Panel as a whole could have done and their findings and conclusions will, in respect of the matters allocated, be taken to be the Panel's.

***Section 77: Exercise of Panel's powers for examining application***

154. This section concerns the exercise of the Panel's procedural powers for examining an application. Any such procedural power may, unless the Panel decides otherwise, be exercised by any one or more of the Panel's members.