



# Planning Act 2008

## 2008 CHAPTER 29

### PART 6

#### DECIDING APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

### CHAPTER 4

#### EXAMINATION OF APPLICATIONS UNDER CHAPTER 2 OR 3

#### **86 Chapter applies to examination by Panel or single [<sup>F1</sup>appointed person]**

- (1) This Chapter applies—
  - (a) in relation to the examination of an application by a Panel under Chapter 2, and
  - (b) in relation to the examination of an application by a single [<sup>F2</sup>appointed person] under Chapter 3.
- (2) In this Chapter as it applies in relation to the examination of an application by a Panel under Chapter 2, “the Examining authority” means the Panel.
- (3) In this Chapter as it applies in relation to the examination of an application by a single [<sup>F2</sup>appointed person] under Chapter 3, “the Examining authority” means the single [<sup>F2</sup>appointed person].

#### **Textual Amendments**

- F1** Words in s. 86 heading substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 37](#); [S.I. 2012/628, art. 7\(a\)](#)
- F2** Words in s. 86 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 37](#); [S.I. 2012/628, art. 7\(a\)](#)

#### **Commencement Information**

- I1** S. 86 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with art. 6)

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*Changes to legislation:* Planning Act 2008, Chapter 4 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## 87 Examining authority to control examination of application

- (1) It is for the Examining authority to decide how to examine the application.
- (2) The Examining authority, in making any decision about how the application is to be examined, must—
  - (a) comply with—
    - (i) the following provisions of this Chapter, and
    - (ii) any rules made under section 97, and
  - <sup>F3</sup>(b) .....
- (3) The Examining authority may in examining the application disregard representations if the Examining authority considers that the representations—
  - (a) are vexatious or frivolous,
  - (b) relate to the merits of policy set out in a national policy statement, or
  - (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

### Textual Amendments

**F3** S. 87(2)(b) repealed (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 38, Sch. 25 Pt. 20; S.I. 2012/628, art. 7

### Commencement Information

**I2** S. 87 in force at 1.3.2010 by S.I. 2010/101, art. 3(d) (with art. 6)

## 88 Initial assessment of issues, and preliminary meeting

- (1) The Examining authority must make such an initial assessment of the principal issues arising on the application as the Examining authority thinks appropriate.
- (2) After making that assessment, the Examining authority must hold a meeting.
- (3) The Examining authority must invite to the meeting—
  - (a) the applicant, <sup>F4</sup>...
  - (b) each other interested party,
  - <sup>F5</sup>(c) each statutory party, and
  - (d) each local authority that is within section 88A,]

whether or not the Examining authority is required by rules under section 97, or chooses, also to invite other persons.
- <sup>F6</sup>(3A) In subsection (3)(c) “statutory party” means a person specified in, or of a description specified in, regulations made by the Secretary of State.]
- (4) The purposes of the meeting are—
  - (a) to enable invitees present at the meeting to make representations to the Examining authority about how the application should be examined,
  - (b) to discuss any other matter that the Examining authority wishes to discuss, and
  - (c) any other purpose that may be specified in rules under section 97.
- (5) Subsections (2) to (4) do not prevent the Examining authority holding other meetings.

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(6) Rules under section 97—

- (a) may (in particular) make provision supplementing subsections (1) to (4), and
- (b) must make provision as to when the assessment under subsection (1) is to be made and as to when the meeting required by subsection (2) is to be held.

**Textual Amendments**

- F4** Word in s. 88(3)(a) repealed (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. 138(5)(a), 240(2), [Sch. 25 Pt. 21](#) (with s. 144); [S.I. 2012/57](#), art. 2(c); [S.I. 2012/628](#), art. 7(a)
- F5** S. 88(3)(c)(d) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. [138\(5\)\(b\)](#), 240(2) (with s. 144); [S.I. 2012/57](#), art. 2(c); [S.I. 2012/628](#), art. 7(a)
- F6** S. 88(3A) inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss. [138\(5\)\(c\)](#), 240(2) (with s. 144); [S.I. 2012/57](#), art. 2(c); [S.I. 2012/628](#), art. 7(a)

**Commencement Information**

- I3** S. 88 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

[<sup>F7</sup>**88A** **Local authorities for the purposes of section 88(3)(d)**

- (1) A local authority (“A”) is within this section if—
- (a) the land is in the area of another local authority (“B”),
  - (b) B is a unitary council or a lower-tier district council, and
  - (c) any part of the boundary of A's area is also a part of the boundary of B's area.
- (2) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—
- (a) D is not a lower-tier district council, and
  - (b) any part of the boundary of D's area is also part of the boundary of C's area.

(3) In this section—

“the land” means the land to which the application relates or any part of that land;

“local authority” has the meaning given in section 102(8);

“lower-tier district council” means a district council in England for an area for which there is a county council;

“unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

“upper-tier county council” means a county council in England for each part of whose area there is a district council.]

**Textual Amendments**

- F7** S. 88A inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), ss. [138\(6\)](#), 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)

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## 89 Examining authority's decisions about how application is to be examined

- (1) The Examining authority must in the light of the discussion at the meeting held under section 88(2) make such procedural decisions as the Examining authority thinks appropriate.
- (2) The decisions required by subsection (1) may be made at or after the meeting.
- [<sup>F8</sup>(2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d)—
  - (a) of those decisions, and
  - (b) that the person may notify the Examining authority in writing that the person is to become an interested party.]
- (3) The Examining authority may make procedural decisions otherwise than as required by subsection (1), and may do so at any time before or after the meeting.
- (4) The Examining authority must inform each interested party of any procedural decision made by the Examining authority.
- (5) In this section “procedural decision” means a decision about how the application is to be examined.

### Textual Amendments

**F8** S. 89(2A) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(7)**, 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)

### Commencement Information

**I4** S. 89 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

## 90 Written representations

- (1) The Examining authority's examination of the application is to take the form of consideration of written representations about the application.
- (2) Subsection (1) has effect subject to—
  - (a) any requirement under section 91, 92 or 93 to cause a hearing to be held, and
  - (b) any decision by the Examining authority that any part of the examination is to take a form that is neither—
    - (i) consideration of written representations, nor
    - (ii) consideration of oral representations made at a hearing.
- (3) Rules under section 97 may (in particular) specify written representations about the application which are to be, or which may be or may not be, considered under subsection (1).

### Commencement Information

**I5** S. 90 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with art. 6)

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## 91 Hearings about specific issues

- (1) Subsections (2) and (3) apply where the Examining authority decides that it is necessary for the Examining authority's examination of the application to include the consideration of oral representations about a particular issue made at a hearing in order to ensure—
  - (a) adequate examination of the issue, or
  - (b) that an interested party has a fair chance to put the party's case.
- (2) The Examining authority must cause a hearing to be held for the purpose of receiving oral representations about the issue.
- (3) At the hearing, each interested party is entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the issue.
- (4) Where the Examining authority is a Panel acting under Chapter 2, any two or more hearings under subsection (2) may be held concurrently.

### Commencement Information

**I6** S. 91 in force at 1.3.2010 by S.I. 2010/101, art. 3(d) (with art. 6)

## 92 Compulsory acquisition hearings

- (1) This section applies where the application includes a request for an order granting development consent to authorise compulsory acquisition of land or of an interest in or right over land (a “compulsory acquisition request”).
- (2) The Examining authority must fix, and cause each affected person to be informed of, the deadline by which an affected person must notify the [F9Secretary of State] that the person wishes a compulsory acquisition hearing to be held.
- (3) If the [F9Secretary of State] receives notification from at least one affected person before the deadline, the Examining authority must cause a compulsory acquisition hearing to be held.
- (4) At a compulsory acquisition hearing, the following are entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the compulsory acquisition request—
  - (a) the applicant;
  - (b) each affected person.
- (5) A person is an “affected person” for the purposes of this section if the person's name has been given to the [F9Secretary of State] in a notice under section 59.

### Textual Amendments

**F9** Words in s. 92 substituted (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 13 para. 39; S.I. 2012/628, art. 7(a)

### Commencement Information

**I7** S. 92 in force at 1.3.2010 by S.I. 2010/101, art. 3(d) (with art. 6)

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### 93 Open-floor hearings

- (1) The Examining authority must fix, and cause the interested parties to be informed of, the deadline by which an interested party must notify the [F10Secretary of State] of the party's wish to be heard at an open-floor hearing.
- (2) If the [F10Secretary of State] receives notification from at least one interested party before the deadline, the Examining authority must cause an open-floor hearing to be held.
- (3) At an open-floor hearing, each interested party is entitled (subject to the Examining authority's powers of control over the conduct of the hearing) to make oral representations about the application.

#### Textual Amendments

**F10** Words in s. 93 substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 40](#); [S.I. 2012/628](#), art. 7(a)

#### Commencement Information

**I8** S. 93 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

### 94 Hearings: general provisions

- (1) The following provisions of this section apply—
  - (a) to a hearing under section 91(2),
  - (b) to a compulsory acquisition hearing (see section 92), and
  - (c) to an open-floor hearing (see section 93).
- (2) The hearing—
  - (a) must be in public, and
  - (b) must be presided over by one or more of the members of the Panel or (as the case may be) the single [F11appointed person].
- (3) It is for the Examining authority to decide how the hearing is to be conducted.
- (4) In particular, it is for the Examining authority to decide—
  - (a) whether a person making oral representations at the hearing may be questioned at the hearing by another person and, if so, the matters to which the questioning may relate;
  - (b) the amount of time to be allowed at the hearing—
    - (i) for the making of a person's representations (including representations made in exercise of an entitlement under section 91(3), 92(4) or 93(3)), or
    - (ii) for any questioning by another person.
- (5) The Examining authority's powers under subsections (3) and (4) are subject to—
  - (a) subsection (2), and
  - (b) any rules made under section 97.
- (6) Although the Examining authority's powers under subsections (3) and (4) may be exercised for the purpose of controlling exercise of an entitlement under section 91(3),

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92(4) or 93(3), those powers may not be exercised so as to deprive the person entitled of all benefit of the entitlement.

- (7) In making decisions under subsection (4)(a), the Examining authority must apply the principle that any oral questioning of a person making representations at a hearing (whether the applicant or any other person) should be undertaken by the Examining authority except where the Examining authority thinks that oral questioning by another person is necessary in order to ensure—
- (a) adequate testing of any representations, or
  - (b) that a person has a fair chance to put the person's case.
- (8) The Examining authority may refuse to allow representations to be made at the hearing (including representations made in exercise of an entitlement under section 91(3), 92(4) or 93(3)) if the Examining authority considers that the representations—
- (a) are irrelevant, vexatious or frivolous,
  - (b) relate to the merits of policy set out in a national policy statement,
  - (c) repeat other representations already made (in any form and by any person), or
  - (d) relate to compensation for compulsory acquisition of land or of an interest in or right over land.

**Textual Amendments**

**F11** Words in s. 94(2)(b) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 41](#); [S.I. 2012/628, art. 7\(a\)](#)

**Commencement Information**

**I9** S. 94 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

**95 Hearings: disruption, supervision and costs**

- (1) Where an interested party or any other person behaves in a disruptive manner at a hearing, the Examining authority may decide to do any one or more of the following—
- (a) exclude the person from all, or part, of the remainder of the hearing;
  - (b) allow the person to continue to attend the hearing only if the person complies with conditions specified by the Examining authority;
  - (c) exclude the person from other hearings;
  - (d) direct that the person is allowed to attend other hearings only if the person complies with conditions specified by the Examining authority.
- (2) In this section “hearing” means—
- (a) a preliminary meeting under section 88,
  - (b) a hearing under section 91(2),
  - (c) a compulsory acquisition hearing (see section 92),
  - (d) an open-floor hearing (see section 93),
  - (e) any other meeting or hearing that the Examining authority causes to be held for the purposes of the Examining authority's examination of the application, or
  - (f) a site visit.

<sup>F12</sup>(3) .....

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- (4) Subsection (5) of section 250 of the Local Government Act 1972 (c. 70) (provisions about costs applying where Minister causes a local inquiry to be held) applies in relation to the Examining authority's examination of the application as it applies in relation to an inquiry under that section, but with references to the Minister causing the inquiry to be held being read as references to the Examining authority.

This is subject to subsection (5) of this section.

- (5) Subsections (6) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) (provisions about expenses applying where Minister causes a local inquiry to be held) apply in relation to the Examining authority's examination of the application in so far as relating to a hearing held in Scotland as they apply in relation to an inquiry under that section, but with references to the Minister causing the inquiry to be held being read as references to the Examining authority.

#### Textual Amendments

**F12** S. 95(3) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 40\(a\)](#)

#### Commencement Information

**I10** S. 95 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

### [<sup>F13</sup>95A Hearings: defence and national security

- (1) Subsection (2) applies if the Secretary of State is satisfied that if all or part of the Examining Authority's examination of the application takes the form of a meeting or hearing—
- (a) the making of particular oral representations at such a meeting or hearing would be likely to result in the disclosure of information as to defence or national security, and
  - (b) the public disclosure of that information would be contrary to the national interest.
- (2) The Secretary of State may direct that representations of a description specified in the direction may be made only to persons of a description so specified (instead of being made in public).
- (3) If the Secretary of State gives a direction under subsection (2), the Attorney General or (where the representations are to be made in Scotland) the Advocate General for Scotland may appoint a person (an “appointed representative”) to represent the interests of an interested party who (by virtue of the direction) is prevented from being present when the representations are made.
- (4) Rules under section 97 may (in particular) make provision as to the functions of an appointed representative.
- (5) The Secretary of State may direct a person (a “responsible person”) to pay the fees and expenses of an appointed representative if the Secretary of State thinks that the responsible person is interested in a meeting or hearing in relation to any representations that are the subject of a direction under subsection (2).



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- (6) Subsections (7) and (8) apply if the Secretary of State gives a direction under subsection (5).
- (7) 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.
- (8) The Secretary of State must cause the amount agreed between the appointed representative and the responsible person, or determined by the Secretary of State, to be certified.
- (9) An amount so certified is recoverable from the responsible person as a civil debt.
- (10) In this section “representations” includes evidence.]

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#### Textual Amendments

**F13** S. 95A inserted (15.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 42](#); [S.I. 2012/57, art. 2\(a\)](#); [S.I. 2012/628, art. 7\(a\)](#)

## 96 Representations not made orally may be made in writing

- (1) Subsection (2) applies where—
- a person asks the Examining authority to be allowed to make oral representations about the application at a hearing,
  - the person does not (for whatever reason) make the representations orally at a hearing,
  - written representations from the person are received by the [<sup>F14</sup>Secretary of State] before the Examining authority completes the Examining authority's examination of the application, and
  - the written representations state that they are ones that the person asked to be allowed to, but did not, make orally at a hearing.
- (2) The Examining authority must consider the written representations as part of the Examining authority's examination of the application, subject to section 87(3).

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#### Textual Amendments

**F14** Words in [s. 96\(1\)\(c\)](#) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 13 para. 43](#); [S.I. 2012/628, art. 7\(a\)](#)

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#### Commencement Information

**I11** S. 96 in force at 1.3.2010 by [S.I. 2010/101, art. 3\(d\)](#) (with [art. 6](#))

## 97 Procedure rules

- (1) The Lord Chancellor or (if subsection (2) applies) the Secretary of State<sup>F15</sup>... may make rules regulating the procedure to be followed in connection with the Examining authority's examination of the application.

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- (2) This subsection applies if the development to which the application relates (or part of the development) is the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—
  - (a) one end of which is in England or Wales, and
  - (b) the other end of which is in Scotland.
- (3) Rules under subsection (1) may make provision for or in connection with authorising the Examining authority, alone or with others, to enter onto land, including land owned or occupied otherwise than by the applicant, for the purpose of inspecting the land as part of the Examining authority's examination of the application.
- (4) Rules under subsection (1) may regulate procedure in connection with matters preparatory to the Examining authority's examination of the application, and in connection with matters subsequent to the examination, as well as in connection with the conduct of the examination.
- (5) Power under this section to make rules includes power to make different provision for different purposes.
- (6) Power under this section to make rules is exercisable by statutory instrument.
- (7) A statutory instrument containing rules under this section is subject to annulment pursuant to a resolution of either House of Parliament.

#### Textual Amendments

**F15** Words in s. 97(1) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 40\(b\)](#)

#### Commencement Information

**I12** S. 97 in force at 1.3.2010 in so far as not already in force by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

## 98 Timetable for examining, and reporting on, application

- (1) The Examining authority is under a duty to complete the Examining authority's examination of the application by the end of the period of 6 months beginning with the day after the start day.
- (2) The start day is the day on which the meeting required by section 88 is held or, if that meeting is held on two or more days, the later or latest of those days.
- (3) <sup>F16</sup>The Examining authority is under a duty to make its report under section 74(2)(b) or 83(1)(b) <sup>F17</sup>by the end of the period of 3 months <sup>F17</sup>beginning with—
  - (a) the deadline for completion of its examination of the application, or
  - (b) (if earlier) the end of the day on which it completes the examination.]
- (4) The <sup>F18</sup>Secretary of State] may set a date for a deadline under this section that is later than the date for the time being set.
- <sup>F19</sup>(4A) The Secretary of State may set a date for a deadline under subsection (1) that is earlier than the date for the time being set.]
- (5) The power under subsection (4) may be exercised—
  - (a) more than once in relation to the same deadline;

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(b) after the date for the time being set for the deadline.

[<sup>F20</sup>(6) Subsections (7) and (8) apply where the power under subsection (4) [<sup>F21</sup>or (4A)] is exercised.

(7) The Secretary of State must—

- (a) notify each interested party of the new deadline, and
- (b) publicise the new deadline in such manner as the Secretary of State thinks appropriate.

(8) The Secretary of State exercising the power must make a statement, to the House of Parliament of which that Secretary of State is a member, announcing the new deadline.

(9) A statement under subsection (8) may be written or oral.]

#### Textual Amendments

- F16** Words in s. 98(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 44\(2\)](#); [S.I. 2012/628](#), art. 7(a)
- F17** Words in s. 98(3) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 139\(2\)](#), 240(2) (with s. 144); [S.I. 2012/628](#), art. 7(a)
- F18** Words in s. 98(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 44\(3\)](#); [S.I. 2012/628](#), art. 7(a)
- F19** [S. 98\(4A\)](#) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 127\(2\)](#), 255(3) (a) (with s. 247)
- F20** [S. 98\(6\)-\(9\)](#) substituted for [s. 98\(6\)](#) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 44\(4\)](#); [S.I. 2012/628](#), art. 7(a)
- F21** Words in [s. 98\(6\)](#) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 127\(3\)](#), 255(3)(a) (with s. 247)

#### Commencement Information

- I13** [S. 98](#) in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

## 99 Completion of Examining authority's examination of application

When the Examining authority has completed its examination of the application, it must inform each of the interested parties of that fact.

#### Commencement Information

- I14** [S. 99](#) in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with [art. 6](#))

## 100 Assessors

(1) The [<sup>F22</sup>Secretary of State] may, at the request of the Examining authority, appoint a person to act as an assessor to assist the Examining authority in the Examining authority's examination of the application.

(2) A person may be appointed as an assessor only if it appears to the [<sup>F23</sup>Secretary of State] that the person has expertise that makes the person a suitable person to provide assistance to the Examining authority.

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#### Textual Amendments

- F22** Words in s. 100(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 45\(2\)](#); [S.I. 2012/628](#), art. 7(a)
- F23** Words in s. 100(2) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 45\(3\)](#); [S.I. 2012/628](#), art. 7(a)

#### Commencement Information

- I15** S. 100 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with art. 6)

### 101 Legal advice and assistance

- (1) The [<sup>F24</sup>Secretary of State] may, at the request of the Examining authority, appoint a barrister, solicitor or advocate to provide legal advice and assistance to the Examining authority in connection with its examination of the application.
- (2) The assistance that may be given by a person appointed under subsection (1) includes carrying out on behalf of the Examining authority any oral questioning of a person making representations at a hearing.

#### Textual Amendments

- F24** Words in s. 101(1) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 46](#); [S.I. 2012/628](#), art. 7(a)

#### Commencement Information

- I16** S. 101 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(d\)](#) (with art. 6)

### 102 Interpretation of Chapter 4: “interested party” and other expressions

- (1) For the purposes of this Chapter, a person is an “interested party” if—
  - (a) the person is the applicant,
  - [<sup>F25</sup>(aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),
  - (ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,]
  - [<sup>F26</sup>(ba) the person is the Marine Management Organisation and the development for which the application seeks development consent would involve the carrying on of any activity in one or more of the areas specified in subsection (1A),]
  - [<sup>F27</sup>(c) the person is a local authority in whose area the land is located,
    - (ca) the person—
      - (i) is mentioned in section 88(3)(c) or (d), and
      - (ii) has notified the Examining authority as mentioned in section 89(2A) (b),]
    - (d) the person is the Greater London Authority and the land is in Greater London, or
    - (e) the person has made a relevant representation.

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[<sup>F28</sup>(1ZA) But a person ceases to be an “interested party” for the purposes of this Chapter upon notifying the Examining authority in writing that the person no longer wishes to be an interested party.]

[<sup>F29</sup>(1A) The areas are—

- (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
- (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
- (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
- (d) an area designated under section 1(7) of the Continental Shelf Act 1964, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.]

(2) In this Chapter “representation” includes evidence, and references to the making of a representation include the giving of evidence.

<sup>F30</sup>(3) .....

(4) A representation is a relevant representation for the purposes of subsection (1) to the extent that—

- (a) it is a representation about the application,
- (b) it is made to the [<sup>F31</sup>Secretary of State] in the prescribed form and manner,
- (c) it is received by the [<sup>F31</sup>Secretary of State] no later than the deadline that applies under section 56 to the person making it,
- (d) it contains material of a prescribed description, and
- (e) it does not contain—
  - (i) material about compensation for compulsory acquisition of land or of an interest in or right over land,
  - (ii) material about the merits of policy set out in a national policy statement, or
  - (iii) material that is vexatious or frivolous.

<sup>F32</sup>(5) .....

<sup>F32</sup>(6) .....

<sup>F32</sup>(7) .....

(8) In [<sup>F33</sup>subsection (1)(c)] “local authority” means—

- (a) a county council, or district council, in England;
- (b) a London borough council;
- (c) the Common Council of the City of London;
- (d) the Council of the Isles of Scilly;
- (e) a county council, or county borough council, in Wales;
- (f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
- (g) a National Park authority;
- (h) the Broads Authority.

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- (9) In this section “the land” means the land to which the application relates or any part of that land.

#### Textual Amendments

- F25** S. 102(1)(aa)(ab) substituted for s. 102(1)(b) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(a), 240(2)** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F26** S. 102(1)(ba) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 23(6)(a), 324(3)**; [S.I. 2010/298](#), [art. 2](#), [Sch. para. 6](#)
- F27** S. 102(1)(c)(ca) substituted for s. 102(1)(c) (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(b), 240(2)** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F28** S. 102(1ZA) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(c), 240(2)** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7\(a\)](#)
- F29** S. 102(1A) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 23(6)(b), 324(3)**; [S.I. 2010/298](#), [art. 2](#), [Sch. para. 6](#)
- F30** S. 102(3) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(d), 240(2), Sch. 25 Pt. 21** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7](#)
- F31** Words in s. 102(4) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), [s. 240\(2\)](#), **Sch. 13 para. 47**; [S.I. 2012/628](#), [art. 7\(a\)](#)
- F32** S. 102(5)-(7) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(e), 240(2), Sch. 25 Pt. 21** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7](#)
- F33** Words in s. 102(8) substituted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(8)(f), 240(2)** (with [s. 144](#)); [S.I. 2012/628](#), [art. 7\(a\)](#)

#### Commencement Information

- I17** S. 102 in force for certain purposes at Royal Assent see [s. 241](#)
- I18** S. 102 in force at 1.3.2010 by [S.I. 2010/101](#), **art. 3(d)** (with [art. 6](#))

### <sup>F34</sup>102A Persons in certain categories may ask to become interested parties etc

- (1) Subsection (2) applies if—
- (a) a person makes a request to the Examining authority to become an interested party,
  - (b) the request states that the person claims to be within one or more of the categories set out in section 102B,
  - (c) the person has not been notified of the acceptance of the application in accordance with section 56(2)(d), and
  - (d) the applicant has issued a certificate under section 58 in relation to the application.
- (2) The Examining authority must decide whether it considers that the person is within one or more of the categories set out in section 102B.
- (3) If the Examining authority decides that it considers that the person is within one or more of the categories set out in section 102B, the Examining authority must notify the person, and the applicant, that the person has become an interested party under section 102(1)(ab).
- (4) If the Examining authority thinks that a person might successfully make a request mentioned in subsection (1)(a), the Examining authority may inform the person about becoming an interested party under section 102(1)(ab).

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But the Examining authority is under no obligation to make enquiries in order to discover persons who might make such a request.

#### Textual Amendments

**F34** Ss. 102A, 102B inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(9), 240(2)** (with s. 144); S.I. 2012/628, art. 7(a)

### 102B Categories for the purposes of section 102A

- (1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.
- (2) A person is within Category 2 if the person—
  - (a) is interested in the land, or
  - (b) has power—
    - (i) to sell and convey the land, or
    - (ii) to release the land.
- (3) An expression, other than “the land”, that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.
- (4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled—
  - (a) as a result of the implementing of the order,
  - (b) as a result of the order having been implemented, or
  - (c) as a result of use of the land once the order has been implemented,
 to make a relevant claim.
- (5) In subsection (4) “relevant claim” means—
  - (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
  - (b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);
  - (c) a claim under section 152(3).
- (6) In this section “the land” means the land to which the application relates or any part of that land.]

#### Textual Amendments

**F34** Ss. 102A, 102B inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 138(9), 240(2)** (with s. 144); S.I. 2012/628, art. 7(a)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 10A inserted by [2023 c. 55 Sch. 12 para. 1](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 223(1)(za) inserted by [2023 c. 55 s. 139\(6\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)