
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

**The Transport and Works (Scotland) Act 2007
(Inquiries and Hearings Procedure) Rules 2007**

PART 3

HEARINGS

Procedure at hearing

28.—(1) Except as otherwise provided in these Rules, the reporter shall determine the procedure at a hearing and shall state at the commencement of the hearing the procedure the reporter proposes to adopt subject to consideration of any submission by any of the persons specified in rule 26(1).

(2) A hearing shall take the form of a discussion led by the reporter and cross examination shall not be permitted unless the reporter considers that cross examination is required to ensure a thorough examination of the main issues.

(3) Where the reporter considers that cross examination is required under paragraph (2) the reporter shall consider, after consulting the persons specified in rule 26(1), whether the hearing should be closed and a public local inquiry pursuant to section 9 of the Act held instead and if so the reporter shall advise the Scottish Ministers accordingly.

(4) At the start of the hearing the reporter shall identify what are, in the reporter's opinion, the main issues to be considered at the hearing and any matters on which the reporter requires further explanation from any person entitled or permitted to appear.

(5) Nothing in paragraph (4) shall preclude any person entitled or permitted to appear from referring to issues which they consider relevant to the consideration of the application but which were not issues identified by the reporter pursuant to that paragraph.

(6) A person entitled to appear at a hearing shall be entitled to call evidence but, subject to paragraphs (7) and (9), the calling of evidence shall otherwise be at the reporter's discretion.

(7) The reporter may refuse to permit—

- (a) the giving or production of evidence; or
- (b) the presentation of any other matter,

which the reporter considers to be irrelevant or repetitious but, where the reporter refuses to permit the giving of oral evidence for these reasons, the person wishing to give evidence may submit to the reporter in writing any such evidence or other matter before the close of the hearing.

(8) The reporter may direct the applicant to provide facilities so that any person appearing at a hearing may take or obtain copies of documentary evidence open to public inspection, subject to such a person paying to the applicant a reasonable charge for the use of the facilities.

(9) The reporter may require any person appearing or present at a hearing who, in the reporter's opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit that person to return only on such conditions as the reporter may specify; but any

such person may submit to the reporter in writing any evidence or other matter before the close of the hearing.

(10) The reporter may proceed with a hearing in the absence of any person specified in rule 26(1).

(11) The reporter may allow any person to alter or add to a hearing statement served under rule 23 so far as may be necessary for the purpose of the hearing; but the reporter shall (if necessary by adjourning the hearing) give every other person specified in rule 26(1) an adequate opportunity of considering any fresh matter or document.

(12) The reporter may take into account any written representation or evidence or any other document received by the reporter from any person before a hearing opens or during the hearing provided that the reporter discloses it either, where practical, in advance of the hearing by circulating copies of the documents or otherwise, at the hearing, by ensuring that copies are available for inspection.

(13) The reporter may from time to time adjourn a hearing, and

- (a) if at the hearing the reporter announces the date, time and place for reconvening the adjourned hearing no further notice shall be required, but
- (b) if the reporter makes no such announcement the reporter shall give such notice as the reporter considers reasonable and appropriate.