
STATUTORY INSTRUMENTS

1992 No. 2817

TRIBUNALS AND INQUIRIES

The Transport and Works (Inquiries Procedure) Rules 1992

Made - - - - *20th October 1992*
Laid before Parliament *20th November 1992*
Coming into force - - *1st January 1993*

The Lord Chancellor, in exercise of the powers conferred on him by section 9 of the Tribunals and Inquiries Act 1992(1), and after consultation with the Council on Tribunals, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Transport and Works (Inquiries Procedure) Rules 1992, and shall come into force on 1st January 1993.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires, references to sections are references to sections of the Transport and Works Act 1992(2), and—

“applicant” means any person who has submitted an application to the Secretary of State in accordance with rules made under section 6; or, in the case where the Secretary of State has made a proposal for an order under section 7, the Secretary of State;

“application” means an application under section 6 for an order under section 1 or 3 or the publication of a notice by the Secretary of State of a proposal to make such an order by virtue of section 7;

“assessor” means a person appointed by the Secretary of State to sit with an inspector at an inquiry or re-opened inquiry to advise the inspector on such matters arising as the Secretary of State may specify;

“document” includes a photograph, map or plan;

“inquiry” means a public local inquiry to which these Rules apply by virtue of rule 3;

“inspector” means a person appointed by the Secretary of State to hold an inquiry or a re-opened inquiry;

(1) 1992 c. 53.
(2) 1992 c. 42.

- “official body” means a Minister of the Crown or a government department;
- “official case” means a written statement by an official body setting out its evidence in regard to an application;
- “official representation” means a written objection or representation made by an official body in regard to an application;
- “order” means an order under section 1 or 3;
- “outline statement” means a written statement of the principal submissions which a person proposes to put forward at an inquiry;
- “pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously, and where more than one such meeting is held references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;
- “relevant date” means the date on which the Secretary of State gives notice under rule 4 and “relevant notice” means that notice;
- “statement of case” means a written statement containing full particulars of the case which a person proposes to put forward at the inquiry (including, where that person is the applicant, the reasons for submitting the application), together with a list of any documents which that person intends to refer to or put in evidence;
- “statement of matters” means a statement by the Secretary of State of the matters about which he particularly wishes to be informed for the purposes of his consideration of the order in question;
- “statutory body” means a body, not being an official body, which has been given by public general Act functions relevant to the subject matter of an application;
- “statutory objector” means a person within section 11(4).

(2) Where the Secretary of State is the applicant these Rules shall be construed so as not to require that—

- (a) the Secretary of State shall serve a document upon himself, or
- (b) he shall consult or agree with himself upon any matter, or
- (c) any other person shall serve a document upon the Secretary of State more than once.

Application of Rules

3. These Rules shall apply in relation to any inquiry which is caused by the Secretary of State to be held in England and Wales pursuant to section 11.

Preliminary action to be taken by the Secretary of State

4.—(1) Where the Secretary of State intends to cause an inquiry to be held, he shall, not later than 4 weeks after the date specified in paragraph (2) below, give written notice of that intention to the applicant, to each statutory objector, to any statutory body which has submitted a valid objection (unless such objection has been withdrawn) and to any official body which has made an official representation.

(2) The date referred to in paragraph (1) above is—

- (a) in the case of an application to which section 9 applies, the date on which each House of Parliament passes a resolution under section 9(4) (or, if there are two such dates, the later of them); and

- (b) in every other case, the date of expiry of the period within which an objection to the application may be made.

Preliminary action to be taken by official bodies

5. Where an official body has made an official representation it shall (unless it has already done so) serve upon the Secretary of State, the applicant and any statutory objector, an official case within 3 weeks of the relevant notice.

Procedure where Secretary of State causes pre-inquiry meeting to be held

6.—(1) The Secretary of State may cause a pre-inquiry meeting (hereinafter in this rule referred to as a “meeting”) to be held if it appears to him desirable and where he does so this rule applies.

(2) The Secretary of State shall serve with the relevant notice a notification of his intention to cause a meeting to be held and a statement of matters.

(3) The applicant shall, not later than 3 weeks after the relevant date, publish in a local newspaper circulating in the area (or each of the areas) in which the proposals contained in the application are to have effect a notice of the Secretary of State’s intention to cause a meeting to be held.

(4) The notice published pursuant to paragraph (3) shall include the text of the statement of matters.

(5) The applicant shall, not later than 8 weeks after the relevant date, serve on the Secretary of State and on each statutory objector an outline statement.

(6) The applicant shall include in the outline statement the text of any official case supplied under rule 5 upon which he wishes to rely, and shall, not later than 8 weeks after the relevant date, serve a copy of that statement on the official body concerned.

(7) When required by notice in writing from the Secretary of State to do so—

(a) any statutory objector; and

(b) any other person who has notified him of any intention or wish to appear at the inquiry,

shall within 8 weeks from the date of such notice serve upon the Secretary of State, on the applicant and on any other person specified in such notice, an outline statement.

(8) The meeting (or, where there is more than one, the first meeting) shall be held not later than 16 weeks after the relevant date.

(9) The Secretary of State shall give not less than 3 weeks' written notice of the date, time and location of the meeting to the applicant, each statutory objector and any other person whose presence at the meeting seems to him to be desirable. He may require the applicant to take, in relation to notification of the meeting, one or more of the steps mentioned in rule 11(6).

(10) The inspector shall preside at the meeting and shall determine the matters to be discussed and the procedure to be followed; and he may require any person present at the meeting who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return or to attend any further meeting, or may permit him to return or attend only on such conditions as he may specify.

(11) Where a meeting has been held pursuant to paragraph (1), the inspector may hold a further meeting. He shall arrange for such notice to be given of a further meeting as appears to him necessary and paragraph (10) shall apply to such a meeting.

Service of statements of case, etc

7.—(1) The applicant shall not later than—

(a) 6 weeks after the relevant date; or

- (b) where a pre-inquiry meeting is held pursuant to rule 6, 4 weeks after the conclusion of that meeting,

serve a statement of case on the Secretary of State and on each statutory objector.

(2) The applicant shall, unless he has done so in an outline statement served pursuant to rule 6(5), include in his statement of case the text of any official case supplied under rule 5 upon which he wishes to rely, and in such a case shall supply a copy of the statement to the relevant official body within the relevant period for service of a statement of case under paragraph (1).

(3) In addition to the statement of case served under paragraph (1) the applicant shall serve—

- (a) upon the Secretary of State a copy of every document or the relevant part of any document which he intends to refer to or put in evidence and of the notice mentioned in subparagraph (b) below, and
- (b) upon each statutory objector a notice giving the names of all places, within each area in which the proposals contained in the application are to have effect (or as close as reasonably possible to any such area), where a copy of every document or the relevant part of any document which the applicant intends to refer to or put in evidence may be inspected free of charge at all reasonable hours until the date of commencement of the inquiry.

(4) When required by notice in writing from the Secretary of State to do so—

- (a) any statutory objector; or
- (b) any other person who has notified him of an intention or wish to appear at the inquiry,

shall within 6 weeks from the date of such notice serve a statement of case on the Secretary of State, on the applicant and on any other person specified in such notice.

(5) In addition to the statement of case served under paragraph (4) every person mentioned in paragraph (4)(a) and (b) shall serve upon the Secretary of State and the applicant a copy of every document or the relevant part of any document which such person intends to refer to or put in evidence.

(6) The Secretary of State shall supply a copy of the applicant's statement of case and of the notice mentioned in paragraph (3)(b) to any person who is not a statutory objector but has been required to serve a statement of case under paragraph (4).

(7) When required by notice in writing from the Secretary of State or the inspector to do so, any person who has served a statement of case in accordance with this rule shall provide such further information about the matters contained in the statement as the Secretary of State or the inspector may specify. That person shall, at the same time, send a copy of such further information to any other person on whom the statement of case has been served.

(8) Unless a statement of matters has already been served pursuant to rule 6(2), the Secretary of State may, within 12 weeks from the relevant date, serve such a statement on the applicant, each statutory objector and any person from whom he has required a statement of case.

(9) The applicant shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable and subject to payment by that person of a reasonable charge, take copies of any statement or document which, or a copy of which, has been served on or by him in accordance with any of the preceding paragraphs of this rule; and shall specify in his statement of case the time and place at which the opportunity will be afforded.

Further power of inspector to hold pre-inquiry meetings

8.—(1) Where no pre-inquiry meeting is held pursuant to rule 6, the inspector may hold one if he thinks it desirable.

(2) The inspector shall arrange for not less than 3 weeks' written notice of a meeting pursuant to paragraph (1) to be given to the applicant, each statutory objector, any other person known at the

date of the notice to be entitled to appear at the inquiry, and any other person whose presence at the meeting appears to him to be desirable.

(3) Rule 6(10) shall apply to a meeting held under this rule.

Inquiry timetable

9.—(1) Where a pre-inquiry meeting is held pursuant to rule 6 the inspector shall, and in any other case may, arrange a timetable for the proceedings at, or at part of, the inquiry and may at any time vary the timetable.

(2) An inspector may specify in a timetable arranged pursuant to this rule a date by which any proof of evidence and summary required by rule 14(1) to be sent to him shall be so sent.

Notification of appointment of assessor

10. Where the Secretary of State appoints an assessor, he shall notify the persons specified in rule 12(1) of the assessor's name and of the matters on which he is to advise the inspector.

Date and notification of inquiry

11.—(1) The date fixed by the Secretary of State for the commencement of an inquiry shall be determined in consultation with the applicant but shall be—

- (a) not later than 22 weeks after the relevant date; or
- (b) in a case where a pre-inquiry meeting is held pursuant to rule 6, not later than 8 weeks after the conclusion of that meeting; or
- (c) where the Secretary of State is satisfied that in all the circumstances of the case it is impracticable to hold the inquiry within the applicable period mentioned in (a) or (b), the earliest practicable date after the end of that period.

(2) Unless the Secretary of State agrees a lesser period of notice with the applicant and each statutory objector, he shall give not less than 6 weeks' notice of the date, time and place fixed by him for the holding of an inquiry to every person specified in rule 12(1).

(3) The place at which the inquiry is to be held shall be determined by the Secretary of State in consultation with the applicant and where the Secretary of State is satisfied, having regard to the nature of the application, that it is reasonable to do so he may direct that it shall be held in more than one place.

(4) The Secretary of State may vary the date fixed for the commencement of an inquiry whether or not the revised date is within the applicable period mentioned in paragraph (1); and paragraph (2) shall apply to a variation of a date as it applied to the date originally fixed.

(5) The Secretary of State may vary the time or place for the holding of an inquiry and shall give such notice of any such variation as appears to him to be reasonable.

(6) Unless the Secretary of State otherwise directs, the applicant shall, not later than 2 weeks before the date fixed for the holding of an inquiry—

- (a) post a notice of the inquiry in a conspicuous place or (in the case of an application for an order making provision for linear works more than 5 kilometres in length) at intervals of not more than 5 kilometres, on or as close as reasonably practicable to the land to which the powers sought in the application relate;
- (b) post a notice of the inquiry in one or more places where public notices are usually posted in the area (or each of the areas) to which the powers sought in the application relate;
- (c) publish a notice of the inquiry in one or more local newspapers circulating in the area (or in each of the areas) in which the proposals contained in the application are to have effect.

(7) Any notice of inquiry posted or published pursuant to paragraph (6) shall contain a statement of the date, time and place (or where a direction has been given under paragraph (3) above, the places) of the inquiry, and of the relevant section under which the application has been made, together with a sufficient description of the proposals in the application to identify the location of the land to which they relate with or without reference to a specified map.

(8) Where an inquiry is to be held in more than one place paragraphs (2) to (7) shall apply to the second and any subsequent inquiry locations.

Appearances at inquiry

12.—(1) The persons entitled to appear at an inquiry are—

- (a) the applicant;
- (b) any statutory objector;
- (c) any other person who has served an outline statement under rule 6 or a statement of case under rule 7.

(2) Nothing in paragraph (1) shall prevent the inspector from permitting any other person to appear at an inquiry, and such permission shall not be unreasonably withheld.

(3) Any person entitled or permitted to appear may do so on his own behalf or be represented by counsel, solicitor or any other person.

Representation of official bodies at inquiry

13.—(1) An official body which has provided an official case shall arrange for its representative to attend the inquiry if the official body has received, not later than 2 weeks before the date fixed for the holding of any inquiry, a written request for such attendance from the Secretary of State, the applicant or from a statutory objector.

(2) A person attending an inquiry as a representative in pursuance of this rule shall give evidence and be subject to cross-examination to the same extent as any other witness.

(3) Nothing in paragraph (2) shall require a representative of an official body to answer any question which in the opinion of the inspector is directed to the merits of government policy or, in the case of an inquiry into an application to which section 9 applies, the merits of a resolution passed pursuant to section 9(4).

Proofs of evidence

14.—(1) A person entitled to appear at an inquiry who proposes to give, or to call another person to give, evidence at the enquiry by reading a proof of evidence shall send to the inspector a copy of the proof and (subject to paragraph (2) below) a written summary thereof.

(2) No written summary shall be required where the proof which it is proposed to read contains not more than 1500 words.

(3) The proof and summary shall be sent to the inspector not later than—

- (a) 3 weeks before the date fixed for the commencement of the inquiry; or
- (b) where a timetable has been arranged pursuant to rule 9, which specifies a date by which the proof and summary shall be sent to the inspector, that date.

(4) Where the applicant sends a proof and a summary to an inspector in accordance with paragraph (1), he shall at the same time send a copy to every other person specified in rule 12(1); and where any other person so sends such a proof and summary he shall at the same time send a copy to the applicant.

(5) Unless paragraph (2) applies, only the summary shall be read at the inquiry unless the inspector permits or requires otherwise.

(6) Any person required by this rule to send a proof to any other person shall send with it a copy of the whole, or the relevant part, of any document referred to in it, unless copies of the document or part of the document in question are already available for inspection pursuant to rule 7(9).

(7) The applicant shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable and on payment of a reasonable charge, take copies of any document sent to or by him in accordance with any of the preceding paragraphs of this rule.

Procedure at inquiry

15.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at an inquiry.

(2) Unless in any particular case the inspector with the consent of the applicant otherwise determines, the applicant shall begin and shall have the right of final reply. The other persons entitled or permitted to appear shall be heard in such order as the inspector may determine.

(3) Persons specified in rule 12(1) shall be entitled to call evidence, and the applicant and the statutory objectors shall be entitled to cross-examine persons giving evidence, but, subject to paragraphs (2), (4), (5) and (6), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the inspector's discretion.

(4) The inspector may refuse to permit—

- (a) the giving or production of evidence,
- (b) the cross-examination of persons giving evidence, or
- (c) the presentation of any other matter

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

(5) Where a person gives evidence at an inquiry by reading a summary in accordance with rule 14(5), the proof referred to in rule 14(1) and the documents referred to in rule 14(6) shall, unless the person required to provide the summary notifies the inspector that he now wishes to rely on the contents of that summary only, be treated as tendered in evidence, and the person whose evidence the proof contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(6) The inspector may direct the applicant to provide facilities so that any person appearing at an inquiry 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 provision of the facilities.

(7) The inspector may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify; but any such person may submit to him in writing, any evidence or other matter before the close of the inquiry.

(8) The inspector may allow any person to alter or add to a statement of case served under rule 7 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person specified in rule 12(1) an adequate opportunity of considering any fresh matter or document.

(9) The inspector may proceed with an inquiry in the absence of any person specified in rule 12(1).

(10) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.

(11) The inspector may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry be announced at the inquiry before the adjournment, no further notice shall be required.

Site inspections

16.—(1) The inspector may make an unaccompanied inspection of any site to which the application relates before or during an inquiry without giving notice of his intention to the persons specified in rule 12(1).

(2) The inspector may, during an inquiry or after its close, inspect such a site in the company of a representative of the applicant and any statutory objector; and he shall make such an inspection if so requested by the applicant or by any statutory objector before or during an inquiry.

(3) In all cases where the inspector intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

(4) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

17.—(1) After the close of an inquiry, the inspector shall make a report in writing to the Secretary of State, which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(2) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(3) Where an assessor makes a report in accordance with paragraph (2), the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(4) If, after the close of an inquiry, the Secretary of State—

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector, or
- (b) takes into consideration any new evidence or new matter of fact (not being a matter of government policy),

and is for that reason disposed to disagree with a recommendation made by the inspector, he shall not come to a decision which is at variance with that recommendation without first notifying such of the persons specified in rule 12(1) who appear to him to be likely to be affected thereby, and who have appeared at the inquiry, of his disagreement and the reasons for it; and affording them an opportunity either of making written representations to him within 3 weeks of the date of the notification, or (if the Secretary of State has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) of asking within that period for the re-opening of the inquiry.

(5) If, after the close of an inquiry relating to an application in respect of which the appropriate resolutions have been passed under section 9(4), the Secretary of State is disposed to seek the approval of each House of Parliament to modified proposals by means of a resolution in accordance with section 9(5), he shall not do so without first—

- (a) notifying any person who appears to him to be likely to be affected by the modification;
- (b) giving that person an opportunity of making written representations to him about the modifications within such period (which shall be not less than 3 weeks) as he may specify in the notice; and
- (c) considering any representation duly made to him.

(6) The Secretary of State may, as he thinks fit, cause an inquiry to be re-opened, and he shall do so if asked by the applicant or by a statutory objector in the circumstances and within the period mentioned in paragraph (4); and where an inquiry is re-opened (whether by the same or a different inspector)—

- (a) the Secretary of State shall send to the persons specified in rule 12(1) who appeared at the inquiry a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2) to (7) of rule 11 shall apply,
 - (i) as if references to an inquiry were references to a re-opened inquiry, but with the substitution in paragraph (2) of “4 weeks” for “6 weeks”; and
 - (ii) as if the words “whether or not the revised date is within the applicable period mentioned in paragraph (1)” were omitted from paragraph (4).

Notification of decision

18. Where the Secretary of State has published and given notice of his decision under section 14 and a copy of the inspector’s report, together with any assessor’s report appended thereto, is not sent with the notification of the decision, the notification shall be accompanied by a copy of the inspector’s conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision under section 14(1) has not received a copy of that report, he shall be supplied with a copy of it on written application made to the Secretary of State within 4 weeks of the date of the decision.

Allowing further time

19. The Secretary of State may at any time in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Rules, and references in these Rules to a day by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.

Service of notices by post

20. Notices or documents required or authorised to be served or sent under any of the provisions of these Rules may be sent by post.

20th October 1992

Mackay of Clashfern, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe the procedure to be followed in connection with public local inquiries held under section 11 of the Transport and Works Act 1992. These relate to applications for orders authorising—

- (i) the construction or operation of railways, tramways, trolley vehicle systems and other systems of guided transport (as prescribed under section 2 of that Act) and matters ancillary thereto;
- (ii) the construction and operation of inland waterways and matters ancillary thereto;
- (iii) the carrying out of certain works which interfere with navigation and have been prescribed pursuant to section 4 of that Act.