
STATUTORY INSTRUMENTS

1994 No. 3263

The Highways (Inquiries Procedure) Rules 1994

PART IV

RULES APPLICABLE TO ALL INQUIRIES

Proofs of evidence

23.—(1) A person entitled to appear at an inquiry who proposes to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence shall send to the inspector and to the promoting authority 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 1,500 words.

(3) The proof and summary shall be sent to the inspector and the promoting authority 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 8 or 18, which specified a date by which the proof and summary shall be sent to the inspector, that date.

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

(5) The promoting authority 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 them in accordance with this rule.

Procedure at inquiry

24.—(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 promoting authority otherwise determines, the promoting authority 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 13(1) and 22(1) shall be entitled to call evidence, and the promoting authority and the statutory objectors shall be entitled to cross-examine persons giving evidence, but, subject to paragraphs (2), (4), (5) and (7), 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 23(4), the proof referred to in rule 23(1) 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 promoting authority to provide facilities so that any person appearing at any inquiry may take or obtain copies of documentary evidence open to public inspection, subject to such a person paying to the promoting authority 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 matters 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 6 or 16 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 13(1) or 22(1) an adequate opportunity of considering any fresh matter or document introduced by the promoting authority.

(9) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(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

25.—(1) The inspector may make an unaccompanied inspection of any site to which the order or scheme relates before or during an inquiry without giving notice of his intention to the persons specified in rule 13(1) or 22(1).

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

26.—(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 matters 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 13(1) or 22(1) who appear to him to be likely to be affected thereby, and who 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 matters of fact, not being a matter of government policy) of asking within that period for the reopening of the inquiry.

(5) The Secretary of State may, as he thinks fit, cause an inquiry to be reopened, and he shall do so if asked by the promoting authority (in a case where that authority is a local highway authority) or by a statutory objector in the circumstances and within the period mentioned in paragraph (4); and where an inquiry is reopened (whether by the same or a different inspector) —

- (a) the Secretary of State shall send to the persons specified in rule 13(1) or 22(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 (6) of rule 10 and paragraphs (2) to (7) of Rule 20 shall apply,
 - (i) as if references to an inquiry were references to a reopened 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

27.—(1) The Secretary of State shall notify his decision, and the reasons for it, in writing to the promoting authority (in a case where the promoting authority is a local highway authority), to the statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision 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.

(3) In this rule “report” includes any assessor's report appended to the inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing within 6 weeks of the date of the Secretary of State's decision, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

Allowing further time

28. 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

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Rules to a date 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

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

Revocation, savings and transitional

30.—(1) Subject to paragraph (2), the Highways (Inquiries Procedure) Rules 1976 (“the 1976 Rules”)(1)are revoked.

(2) The 1976 Rules shall continue to apply to any inquiry into an order or scheme in respect of which a notice of inquiry under rule 4 or 9 of the 1976 Rules has been given before the date on which these Rules come into force, but this paragraph shall not apply to any inquiry reopened by the Secretary of State after the coming into force of these Rules, pursuant to rule 15(3) of the 1976 Rules.

(1) S.I. 1976/721.