

---

STATUTORY INSTRUMENTS

---

**1996 No. 1022**

**The Lands Tribunal Rules 1996**

**PART VIII**

**General Procedure**

**Determination of proceedings without a hearing**

**27.**—(1) The Tribunal may, with the consent of the parties to the proceedings, order that the proceedings be determined without an oral hearing.

(2) Where the Tribunal makes an order under paragraph (1), any party to the proceedings may submit written representations to the Tribunal.

(3) On or after making an order under paragraph (1), the Tribunal shall give such directions relating to the lodging of documents and representations as it considers appropriate.

(4) Rule 42 shall apply to proceedings to which this rule applies as if references to the calling of witnesses and the hearing of evidence in that rule were references to representations.

(5) The Tribunal may at any time, on the application of a party to the proceedings or of its own motion, order that the proceedings should be heard and in that event may give directions for the disposal of the proceedings in accordance with these Rules.

**Simplified procedure**

**28.**—(1) A member or the registrar may, with the consent of the applicant or appellant or, in relation to proceedings under Part IV, the consent of the person who is claiming compensation, direct that proceedings shall be determined in accordance with this rule.

(2) The registrar shall send a copy of any direction made under paragraph (1) on all the parties to the proceedings and any party who objects to the direction may, within 7 days of service of the copy on him, send written notice of his objection to the registrar.

(3) Rule 38(6) to (9) and (11) shall apply as appropriate where an objection is received by the registrar under paragraph (2).

(4) Paragraphs (5) to (12) shall apply to proceedings in respect of which the registrar has made a direction under paragraph (1).

(5) Where the proceedings relate to an appeal under Part III, rule 8 shall not apply.

(6) The registrar shall—

- (a) give directions concerning the filing and contents of a statement of claim by the applicant or appellant and a reply by the other parties to the proceedings; and
- (b) give the parties not less than 21 days notice of the day fixed for the hearing of the proceedings.

(7) The following directions shall take effect—

- (a) each party shall, not less than 14 days before the date fixed for the hearing, send to every other party copies of all documents in his possession on which he intends to rely at the hearing; and
- (b) each party shall not less than 7 days before the date fixed for the hearing send to the registrar and to every other party a copy of any expert report on which he intends to rely at the hearing and a list of the witnesses whom he intends to call at the hearing.

(8) The registrar may from time to time, whether on application or of his own motion, amend or add to any direction issued if he thinks it necessary to do so in the circumstances of the case.

(9) The hearing shall be informal and shall take place before a single member of the Lands Tribunal who shall act as if he were an arbitrator and who shall adopt any procedure that he considers to be fair.

(10) Strict rules of evidence shall not apply to the hearing and evidence shall not be taken on oath unless the Tribunal orders otherwise.

(11) No award shall be made in relation to the costs of the proceedings except in cases to which section 4 of the 1961 Act apply, save that the Tribunal may make an award of costs

- (a) in cases where an offer of settlement has been made by a party and the Tribunal considers it appropriate to have regard to the fact that such an offer has been made; or
- (b) in cases in which the Tribunal regards the circumstances as exceptional,

and if, exceptionally, an award of costs is made the amount shall not exceed that which would be allowed if the proceedings had been heard in a county court.

(12) The Tribunal may at any time, on the application of a party to the proceedings or of its own motion, order that this rule shall no longer apply to the proceedings and in that event may give directions for the disposal of the proceedings in accordance with these Rules.

### **Site inspections**

**29.**—(1) Subject to paragraph (2), the Tribunal may enter and inspect—

- (a) the land or property which is the subject of proceedings, and
- (b) as far as is practicable, any comparable land or property to which the attention of the Tribunal is drawn.

(2) When the Tribunal intends to enter any premises in accordance with paragraph (1) it shall give notice to the parties who shall be entitled to be represented at the inspection; where the Tribunal deems it appropriate, such representation shall be limited to one person to represent those parties having the same interest in the proceedings.

### **Consolidation of proceedings**

**30.**—(1) Where two or more notices of appeal, references or applications have been made which—

- (a) are in respect of the same land or buildings; or
- (b) relate to different interests in the same land or buildings; or
- (c) raise the same issues;

the President or the Tribunal may, on his or its own motion or on the application of a party to the proceedings, order that the appeals, references or applications be consolidated or heard together.

(2) An order may be made with respect to some only of the matters to which the appeals, references or applications relate.

### **Power to select test case in appeals or references**

**31.**—(1) Where the President is of the opinion that two or more appeals or references involve the same issues he may, with the written consent of all the parties to the appeals or references, select one or more appeal or reference to be heard in the first instance as a test case or test cases and the parties to each appeal or reference shall be bound by the decision of the Tribunal on that appeal or reference.

(2) Paragraph (1) is without prejudice to the right of the parties to each appeal or reference to require the Tribunal to state a case for the decision of the Court of Appeal.

### **Application of Arbitration Act 1950(1)**

**32.** The following provisions of the Arbitration Act 1950 shall apply to all proceedings as they apply to an arbitration—

- (a) section 12 (conduct of proceedings, witnesses etc.);
- (b) section 14 (interim awards);
- (c) section 17 (power to correct slips);
- (d) section 18(5) (application of section 73 of the Solicitors Act 1974<sup>(2)</sup>);
- (e) section 19A<sup>(3)</sup> (power of arbitrator to award interest);
- (f) section 20 (interest on awards), subject to any enactment that prescribes a rate of interest.

### **Evidence**

**33.**—(1) Evidence before the Tribunal may be given orally and may be on oath or affirmation or, if the parties to the proceedings consent or the Tribunal or President so orders, by affidavit.

(2) Notwithstanding paragraph (1), the Tribunal may at any stage of the proceedings require the personal attendance of any deponent for examination or cross-examination.

(3) Paragraphs (2) to (7) of rule 38 shall apply to an application to the President for leave to give evidence by affidavit but as if for “registrar” in those paragraphs there were substituted “President”.

(4) Nothing in the Civil Evidence Act 1972<sup>(4)</sup>, or in rules of court made under it, shall prevent expert evidence from being given before the Tribunal by any party even if no application has been made to the Tribunal for a direction as to the disclosure of that evidence to any other party to the proceedings.

### **Power to order discovery etc**

**34.**—(1) The Tribunal, or subject to any directions given by the Tribunal, the registrar may, on the application of any party to the proceedings or of its or his own motion, order any party—

- (a) to deliver to the registrar any document or information which the Tribunal may require and which it is in the power of the party to deliver;
- (b) to afford to every other party to the proceedings an opportunity to inspect those documents (or copies of them) and to take copies;
- (c) to deliver to the registrar an affidavit or make a list stating whether any document or class of document specified or described in the order or application is, or has at any time been in his possession, custody or power and stating when he parted with it;

---

(1) 1950 c. 27.

(2) 1974 c. 47.

(3) section 19A was inserted by the Administration of Justice Act 1982, Schedule 1, Part IV.

(4) 1972 c. 30.

- (d) to deliver to the registrar a statement in the form of a pleading setting out further and better particulars of the grounds on which he intends to rely and any relevant facts or contentions;
- (e) to answer interrogatories on affidavit relating to any matter at issue between the applicant and the other party;
- (f) to deliver to the registrar a statement of agreed facts, facts in dispute and the issue or issues to be tried by the Tribunal; or
- (g) to deliver to the registrar witness statements or proofs of evidence.

(2) Where an order is made under paragraph (1) the Tribunal or registrar may give directions as to the time within which any document is to be sent to the registrar (being at least 14 days from the date of the direction) and the parties to whom copies of the document are to be sent.

(3) Rule 38 shall apply to this rule as appropriate both in relation to applications and where the registrar acts of his own motion.

### **Extension of time**

**35.**—(1) The time appointed by or under these Rules for doing any act or taking any steps in connection with any proceedings may be extended on application to the registrar under rule 38.

(2) The registrar may extend the time limit on such terms as he thinks fit and may order an extension even if the application is not made until after the time limit has expired.

### **Appellant limited to grounds of appeal**

**36.**—(1) On the hearing of an appeal under Part III or of an application under Part V, the appellant or applicant may rely only on the grounds stated in his notice of appeal, statement of case or application unless the Tribunal permits additional grounds to be put forward.

(2) If the Tribunal permits additional grounds to be put forward in accordance with paragraph (1) it may do so on such terms as to costs, adjournment or otherwise as it thinks fit.

### **Right of audience**

**37.**—(1) Subject to paragraph (2), in any proceedings a party may appear in person or be represented by counsel or solicitor or by any other person with the leave of the Tribunal, or, in the case of an interlocutory application, the leave of the President or the registrar.

(2) Where a valuation officer is a party to proceedings, he may not appear in person except with the leave of the Tribunal or, in the case of an interlocutory application, the leave of the President or the registrar.

### **Interlocutory applications**

**38.**—(1) Except where these Rules make other provision or the President otherwise orders, an application for directions of an interlocutory nature in connection with any proceedings shall be made to the registrar.

(2) The application shall be made in writing and shall state the title of the proceedings, and the grounds upon which the application is made.

(3) If the application is made with the consent of all parties, it shall be accompanied by consents signed by or on behalf of the parties.

(4) If the application is not made with the consent of every party the applicant shall serve a copy of the proposed application on every other party before it is made and the application shall state that this has been done.

(5) A party who objects to an application may, within 7 days of service of a copy on him, send written notice of his objection to the registrar.

(6) Before making an order on an application the registrar shall consider all the objections that he has received and may allow any party who wishes to appear before him the opportunity to do so.

(7) In dealing with an application the registrar shall have regard to the convenience of all the parties and the desirability of limiting so far as practicable the costs of the proceedings and shall inform the parties in writing of his decision.

(8) The registrar may refer the application to the President for a decision and he shall do so if requested by the applicant or a party objecting to the application.

(9) A party may appeal to the President from a decision of the registrar under this rule by giving written notice to the registrar within 7 days of service of the notice of decision or such further time as the registrar may allow.

(10) An appeal under paragraph (9) shall not act as a stay of proceedings unless the President so orders.

(11) Where an application under this rule is made—

- (a) with respect to a case that has been included by the President in a class or group of cases under section 3(2) of the Act, or
- (b) with respect to a case for which a member or members of the Lands Tribunal has or have been selected,

the powers and duties of the President under this rule may be exercised and discharged in relation to the application by any member or members of the Lands Tribunal authorised by the President for that purpose.

### **Pre-trial review**

**39.**—(1) The Tribunal and, subject to any direction given by the Tribunal, the registrar may, on the application of a party to the proceedings or of its or his own motion order a pre-trial review to be held and the registrar shall send to each party to the proceedings a notice informing him of the place and date of the pre-trial review.

(2) Unless the parties agree otherwise, the date of the pre-trial review shall be not less than 14 days from the making of the order that the pre-trial review should be held.

(3) The Tribunal or the registrar—

- (a) shall at the pre-trial review give any direction that appears necessary or desirable for securing the just, expeditious and economical disposal of the proceedings; and
- (b) shall at the pre-trial review endeavour to secure that the parties make all such admissions and agreements as ought reasonably to be made by them in relation to the proceedings;
- (c) may record in the order made on the review any admission or agreement made under subparagraph (b) or any refusal to make any admission or agreement.

(4) Where a party seeks a specific direction he shall, so far as is practicable, apply for such direction at the pre-trial review and shall give the registrar and every other party notice of his intention to do so.

(5) If an application which might have been made at the pre-trial review is made subsequently the applicant shall pay the costs of and occasioned by the application unless the Tribunal considers that there was sufficient reason for the application not having been made at the review.

(6) Paragraphs (6) to (11) of rule 38 shall apply to a pre-trial review as if it were an interlocutory application.

(7) If any party does not appear at the pre-trial review the Tribunal or the registrar may, after giving the parties the opportunity to be heard, make such order as may be appropriate for the purpose of expediting or disposing of the proceedings.

### **Certificates of value**

**40.** A party may apply in writing to the registrar for a certificate of value under section 35 of the 1961 Act and shall provide the registrar, at his request, with the information necessary to enable the certificate to be given.

### **Administration of oaths**

**41.** The registrar and the Tribunal shall have power to administer oaths and take affirmations for the purpose of affidavits to be used in proceedings or for the purpose of the giving of oral evidence at hearings.

### **Expert witnesses**

**42.—(1)** This rule applies to any proceedings except an application for a certificate under Part VI.

(2) Subject to paragraph (3), only one expert witness on either side shall be heard unless the Tribunal orders otherwise.

(3) Where the proceedings relate to mineral valuations or business disturbance, not more than two expert witnesses on either side shall be heard unless the Tribunal orders otherwise.

(4) An application for leave to call more than the number of expert witnesses permitted by this rule may be made to the registrar in accordance with rule 38, or to the Tribunal at the hearing.

(5) A party shall, within 28 days of receiving a request from the registrar, send to him and to the other parties to the proceedings a copy of each of the following documents relating to the evidence to be given by each expert witness—

(a) the expert witness's report, including every plan and valuation of the land or property to which the proceedings relate (which shall include full particulars and computations in support of the valuation) which it is proposed to put in evidence; and

(b) either—

(i) full particulars of any comparable properties and transactions to which the party intends to refer at the hearing in support of his case and a statement of the purpose for which the comparison is made; or

(ii) a statement that no comparable properties or transactions will be referred to.

(6) If—

(a) an application for leave under paragraph (4) is made at the hearing and granted by the Tribunal; or

(b) at the hearing any party seeks to rely on documents not sent to the registrar or to the other parties in accordance with paragraph (5);

the Tribunal may adjourn the hearing on such terms as to costs or otherwise as it thinks fit.

### **Preliminary issues**

**43.—(1)** The President or the Tribunal may, on the application of any party to proceedings, order any preliminary issue in the proceedings to be disposed of at a preliminary hearing.

(2) If in the opinion of the Tribunal the decision on the preliminary issue disposes of the proceedings, it may order that the preliminary hearing shall be treated as the hearing of the case or may make such other order as it thinks fit.

(3) Paragraphs (2) to (7) of rule 38 shall apply to an application under paragraph (1) above as if for “registrar” in those paragraphs there were substituted “President”.

#### **Sealed offers**

**44.**—(1) Where any party unconditionally offers or is ready to accept, any sum as compensation or by way of price, or to agree a rent or a rateable value, a copy of the offer or indication of the readiness to accept enclosed in a sealed cover may be sent to the registrar or delivered to the Tribunal at the hearing by the party who made the offer or indicated the readiness to accept and shall be opened by the Tribunal after it has determined the proceedings.

(2) An offer or an indication of readiness to accept which is sent to the registrar or delivered to the Tribunal in accordance with paragraph (1), shall not be disclosed to the Tribunal until it has decided the amount of such sum, rent or rateable value.

#### **Withdrawal or dismissal of appeal etc, before hearing**

**45.**—(1) An appeal, reference or application may be withdrawn by sending to the registrar a written notice of withdrawal signed by all parties to the proceedings or by their representatives.

(2) A party may, at any time before the hearing of the proceedings, apply to the President for an order to dismiss the proceedings and the President may make such order as he thinks fit.

(3) Paragraphs (2) and (4) to (7) of rule 38 shall apply to an application under paragraph (2) as if for “registrar” there were substituted “President”.

#### **Failure to pursue proceedings or comply with Rules**

**46.**—(1) If it appears to the Tribunal that any party to proceedings has failed to send a copy of any document to any other party or to the registrar as required by these Rules, it may—

- (a) direct that a copy be sent;
- (b) adjourn the further hearing of the proceedings; and
- (c) require the party at fault to pay any additional costs occasioned as a result of the failure.

(2) Where a party has failed to pursue any proceedings with due diligence or has failed to comply with any of the provisions of these Rules, the registrar, on the application of any party or of his own motion, after giving the parties an opportunity to be heard may make—

- (a) an order that the proceedings be heard by the Tribunal; or
- (b) an order that the proceedings be dismissed or that any party be debarred from taking any further part in the proceedings; or
- (c) such other order as may be appropriate for expediting or disposing of the proceedings including an order for costs.

(3) Paragraphs (9) and (10) of rule 38 shall apply to any order made by the registrar under paragraph (2).

#### **Failure to comply with the Rules not to render proceedings invalid**

**47.** Any failure by any person to comply with these Rules shall not render the proceedings or anything done in pursuance of them invalid unless the President or the Tribunal so directs.

### **Procedure at hearing**

**48.** Subject to these Rules and to any direction by the President, the procedure at the hearing of any proceedings shall be such as the Tribunal may direct.

### **Default of appearance at hearing**

**49.**—(1) If on an appeal under Part III or an application under Part V the appellant or applicant fails to attend or be represented at the hearing the Tribunal may dismiss the appeal or application.

(2) If any party to proceedings referred to in paragraph (1) other than the appellant or applicant, or any party to a reference under Part IV fails to attend or be represented at the hearing, the Tribunal may hear and determine the appeal, application or reference in his absence and may make such order as to costs as it thinks fit.

(3) Where proceedings have been dismissed or determined under this rule, the Tribunal may, on the application of the party who has failed to attend within 7 days of the dismissal or determination, if it is satisfied that he had sufficient reason for his absence, set aside the dismissal or determination on such terms as to costs as it thinks fit.

### **Decision of Tribunal**

**50.**—(1) Subject to paragraph (2), the decision of the Tribunal on an appeal, reference or application shall be given in writing, and shall state the reasons for the decision.

(2) The Tribunal may give its decision orally in cases where it is satisfied that this would not result in any injustice or inconvenience to the parties.

(3) The Tribunal may, and on the application of any party to the proceedings shall, issue an order incorporating its decision.

(4) Where an amount awarded or value determined by the Tribunal is dependent upon the decision of the Tribunal on a question of law which is in dispute in the proceedings, the Tribunal shall ascertain, and shall state in its decision, any alternative amount or value which it would have awarded or determined if it had come to a different decision on the point of law.

(5) The registrar shall send a copy of the decision or, where the decision is given orally an order stating its effect, to every party who has appeared before the Tribunal in the proceedings, and—

- (a) in the case of an appeal against the decision of a valuation tribunal to the clerk of that tribunal and, if the appeal is a rating appeal, to the valuation officer;
- (b) in the case of any other appeal under Part III, to the authority.

(6) If the Court of Appeal directs that any decision of the Tribunal, on which a case has been stated for the decision of the Court of Appeal, should be amended the registrar shall send copies of the amended decision to every person who was notified of the original decision.

### **Consent orders**

**51.** Where the parties to proceedings have agreed the terms of an order to be made by the Tribunal, particulars of those terms signed by all the parties or by their representatives shall be sent to the registrar and an order may be made by the Tribunal in accordance with those terms in the absence of the parties.

### **Costs**

**52.**—(1) Subject to the provisions of section 4 of the 1961 Act and of rule 28(11), the costs of and incidental to any proceedings shall be in the discretion of the Tribunal.



(2) The registrar may make an order as to costs in respect of any application or proceedings heard by him.

(3) A person dissatisfied with the order of the registrar under paragraph (2) may, within 10 days of the order, appeal to the President who may make such order as to the payment of costs, including the costs of the appeal, as he thinks fit.

(4) If the Tribunal directs that the costs of a party to the proceedings be paid by another party it may settle the amount of costs by fixing a lump sum or direct that the costs be taxed by the registrar on such basis as the Tribunal thinks fit, being a basis that would be applied on a taxation of the costs of High Court or county court proceedings.

(5) A party dissatisfied with a taxation of costs under paragraph (4) may, within 7 days of the taxation, serve on any other interested party and on the registrar written objection specifying the items objected to and applying for the taxation to be reviewed in respect of those items.

(6) Upon such application the registrar shall review the taxation of the items objected to and shall state in writing the reasons for his decision.

(7) A person dissatisfied with the decision of the registrar under paragraph (6) may, within 10 days of the decision, apply to the President to review the taxation and the President may make such order as he thinks fit including an order as to payment of the costs of the review.

(8) Paragraphs (8) and (10) of rule 38 shall apply to any application under this rule.

#### **Solicitor to be on the record**

**53.**—(1) Where a solicitor commences or responds to proceedings on behalf of a party to those proceedings he shall be noted on the record of the Tribunal as acting for that party.

(2) A party who has previously carried on proceedings in person may appoint a solicitor at any time to act on his behalf and if he does so shall notify the Tribunal who shall note on the record that the solicitor is acting for that party.

(3) A party who has previously been represented by a solicitor may change his solicitor at any time, or may decide to continue the proceedings in person but unless such change or decision is notified to the Tribunal the former solicitor shall be considered the representative of the party until the conclusion of the proceedings.

(4) The notifications referred to in paragraphs (2) and (3) may be given by the party or his solicitor and the person giving the notification shall send a copy to every other party to the proceedings.

(5) A solicitor who is on the record of the Tribunal as acting for a party shall be responsible for the payment of all fees of the Tribunal which are the responsibility of that party whilst he remains on the record.

#### **Service of notices**

**54.**—(1) Every party to proceedings shall notify the registrar of an address for service of documents on him.

(2) Where a party to proceedings is represented by a person other than a solicitor he shall—

- (a) send to the registrar written authority for that representative to act on his behalf; and
- (b) notify the registrar if the representative ceases to act on his behalf and, if replaced, shall give the registrar details of the new representative together with the written authority for the new representative to act on his behalf.

(3) Any document to be served on any person under these Rules shall be deemed to have been served if sent by pre-paid post to that person at his address for service.

(4) Any document to be sent to the registrar under these Rules shall be sent to him at the office.

(5) Any application or communication to be made to the President or to any member of the Lands Tribunal in respect of any case shall be addressed to the registrar at the office.

**Change of address**

**55.** A party to any proceedings may at any time by notice in writing to the registrar and to every other party to the proceedings change his address for service under these Rules.

**Substituted service**

- 56.** If any person to whom any notice or other document is required to be sent under these Rules—
- (a) cannot be found after all diligent enquiries have been made;
  - (b) has died and has no personal representative; or
  - (c) is out of the United Kingdom;

or for any other reason service upon him cannot readily be effected in accordance with these Rules, the President or the Tribunal may dispense with service upon that person or make an order for substituted service in such other form (whether by advertisement in a newspaper or otherwise) as the President or Tribunal may think fit.