

2018 No. 248

TRIBUNALS AND INQUIRIES, ENGLAND AND WALES

**The Compulsory Purchase (Inquiries Procedure) (Miscellaneous
Amendments and Electronic Communications) Rules 2018**

<i>Made</i> - - - -	<i>26th February 2018</i>
<i>Laid before Parliament</i>	<i>28th February 2018</i>
<i>Coming into force</i> - -	<i>6th April 2018</i>

The Lord Chancellor, in exercise of the powers conferred by section 9 of the Tribunals and Inquiries Act 1992(a) and sections 8 and 9 of the Electronic Communications Act 2000(b), makes the following Rules.

The Lord Chancellor considers that the authorisation by these Rules of the use of electronic communications for any purpose is such that the extent (if any) to which records of things done for the purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases.

PART 1

Preliminary matters

Citation and commencement

1.—(1) These Rules may be cited as the Compulsory Purchase (Inquiries Procedure) (Miscellaneous Amendments and Electronic Communications) Rules 2018.

(2) These Rules come into force on 6th April 2018.

Application

2.—(1) With the exception of the amendment made by rule 7, the amendments made by these Rules apply only in relation to—

- (a) a compulsory purchase order which is submitted by an acquiring authority for confirmation in accordance with section 2(2)(b) of the Acquisition of Land Act 1981(c) on or after 6th April 2018; or

(a) 1992 c. 53; section 9 was amended by S.I. 2013/2042. There are other amendments to section 9 which are not relevant. For the definition of “Minister” for the purposes of section 9, *see* section 16(1).
(b) 2000 c. 7. For the purposes of sections 8 and 9, the Lord Chancellor is “the appropriate Minister” in relation to matters under the Tribunals and Inquiries Act 1992 (c. 53).
(c) 1981 c. 67; section 2(2) was substituted by section 181(1) and (3) of the Housing and Planning Act 2016 (c. 22).

(b) a draft compulsory purchase order in respect of which a Minister publishes a notice under paragraph 2(1) of Schedule 1 to that Act on or after that date.

(2) The amendment made by rule 7 applies only to a decision notified under rule 19(1) of the 2007 Rules which is quashed, in full or in part, in proceedings before any court on or after 6th April 2018.

Interpretation

3. In these Rules—

“the 2007 Rules” means the Compulsory Purchase (Inquiries Procedure) Rules 2007(a);

“acquiring authority” and “compulsory purchase order” have the same meaning as in section 7(1) of the Acquisition of Land Act 1981.

PART 2

Miscellaneous Amendments

Amendments to the table of contents

4. In the table of contents for the 2007 Rules—

(a) after the entry for rule 2, insert “2A. Application of the Rules where a person is appointed under section 14D of the Act”;

(b) after the entry for rule 19, insert “19A. Procedure following quashing of decision”;

(c) at the end, insert “SCHEDULE—Modifications where a person is appointed under section 14D of the Act”.

Insertion of new rule 2A

5. After rule 2 (interpretation) of the 2007 Rules, insert—

“Application of the Rules where a person is appointed under section 14D of the Act

2A.—(1) Where a person is appointed under section 14D of the Act(b), these Rules have effect subject to the modifications in the Schedule.

(2) Where a person’s appointment under section 14D of the Act is revoked, these Rules have effect without the modifications in the Schedule and any step taken or thing done before the revocation, which could be taken or done under the Rules (without the modifications), is to have effect as if it had been taken or done under these Rules (without the modifications).”.

Amendment to rule 18

6. In rule 18 (procedure after inquiry) of the 2007 Rules, before paragraph (1) insert—

“(A1) Within 10 business days beginning with the day after the day on which the inquiry closes, the authorising authority must inform the persons listed in rule 19(1) in writing of the expected date of its decision.”.

(a) S.I. 2007/3617. Rule 22(3), which saved Rules from 1990 and 1994 where the Welsh Ministers cause a public inquiry to be held under the Acquisition of Land Act 1981 (c. 67), was revoked (along with the saved 1990 and 1994 Rules) by S.I. 2010/3015.

(b) Section 14D of the Acquisition of Land Act 1981 (c. 67) was inserted by section 181(2) of the Housing and Planning Act 2016 (c. 22).

Insertion of new rule 19A

7. After rule 19 (notice of decision) of the 2007 Rules, insert—

“Procedure following quashing of decision

19A.—(1) Where a decision notified under rule 19(1) is quashed, in full or in part, in proceedings before any court, the authorising authority—

- (a) must send to any person who was entitled to appear at the inquiry a written statement of the matters with respect to which further representations are invited for the purposes of the further consideration of the order by the authorising authority;
- (b) must afford to those persons the opportunity of making written representations to the authorising authority in respect of those matters or of asking for the re-opening of the inquiry; and
- (c) may, as it thinks fit, cause the inquiry to be re-opened (whether by the same or a different inspector) and, if it does so, paragraphs (2) to (5) of rule 10 apply as if references to an inquiry were references to a re-opened inquiry.

(2) Those persons making representations or asking for the inquiry to be re-opened under paragraph (1)(b) must ensure that such representations or requests are received by the authorising authority within 3 weeks beginning with the date of the written statement sent under paragraph (1)(a).”.

Insertion of new Schedule

8. At the end of the 2007 Rules insert the Schedule set out in the Schedule to these Rules.

PART 3

Electronic Communications

Amendments to rule 2

9.—(1) Rule 2 (interpretation) of the 2007 Rules is amended as follows.

(2) The existing provisions of rule 2 become paragraph (1) of that rule, and in that paragraph—

- (a) after the definition of “authorising authority” insert—

““business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday, or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(a);”;
- (b) after the definition of “document” insert—

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(b);”.
- (3) After paragraph (1), insert—

“(2) In these Rules, and in relation to the use of electronic communications for any purpose of these Rules which is capable of being carried out electronically—

 - (a) the expression “address” includes any number or address used for the purposes of such communications;

(a) 1971 c. 80.

(b) Section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(b) references to statements, notices or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Rules to give or send any statement, notice or other document to any other person (“the recipient”).

(4) The requirement is to be taken to be fulfilled where the document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) A requirement in these Rules that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4), and “written” is to be construed accordingly.

(7) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next business day.”.

Substitution of rule 21

10. For rule 21 (sending of notices by post) of the 2007 Rules, substitute—

“Sending of notices

21. Notices or documents required or authorised to be sent under any of the provisions of these Rules may be sent—

- (a) by post; or
- (b) by using electronic communications to send the notice or document (as the case may be) to a person at such address as may for the time being be specified by the person for that purpose.”.

Insertion of new rule 21A

11. After rule 21 of the 2007 Rules, insert—

“Withdrawal of consent to use of electronic communications

21A. Where a person is no longer willing to accept the use of electronic communications for any purpose which, under these Rules, is capable of being carried out using such communications, the person must give notice in writing—

- (a) withdrawing any address notified to the authorising authority or the inspector for that purpose, or
- (b) revoking any agreement entered into with the authorising authority or the inspector for that purpose,

and such withdrawal or revocation is final and takes effect on a date specified by the person in the notice but not less than 7 days after the date on which the notice is given.”.

SCHEDULE

Rule 8

“SCHEDULE

Rule 2A

Modifications where a person is appointed under section 14D of the Act

Modification of rule 2

1. Rule 2(1) (interpretation) has effect as if, for the definition of “inspector”, there were substituted—

““inspector” means a person appointed by a confirming authority under section 14D of the Act to act instead of it in relation to the confirmation of a non-ministerial order;”.

Modification of rule 4

2. Rule 4 (pre-inquiry meetings) has effect as if there were substituted—

“Pre-inquiry meetings

4.—(1) If it appears to the inspector to be desirable, he may hold a pre-inquiry meeting, and where he does so, he must arrange for not less than 3 weeks’ written notice of the meeting to be given to—

- (a) the acquiring authority;
- (b) each remaining objector;
- (c) any other person known at the date of the notice to be entitled to appear at the inquiry; and
- (d) any other person whose presence at the meeting appears to him to be desirable.

(2) The inspector is to determine the matters to be discussed and the procedure to be followed at a pre-inquiry meeting, and in particular he may require any person at the meeting who, in his opinion, is behaving in a disruptive manner to leave.

(3) Where the inspector requires a person to leave under paragraph (2), he may refuse to permit that person to return or to attend any further pre-inquiry meetings relating to the same inquiry, or permit that person to return or to attend any further pre-inquiry meetings relating to the same inquiry only on such conditions as he may specify.”.

Disapplication of rules 5 and 6

3. Rules 5 and 6 (pre-inquiry meetings) have effect as if they were omitted.

Modification of rule 7

4. Rule 7(1)(a) (statements of case) has effect as if the words “or rule 6(3)” were omitted.

Modification of rule 8

5. Rule 8(1) (inquiry timetable) has effect as if the words “or 6” were omitted.

Modification of rule 9

6. Rule 9(b) (notice of appointment of assessor) has effect as if the words “an outline statement under rule 5 or” were omitted.

Modification of rule 10

7. Rule 10 (date of inquiry) has effect as if—

- (a) in paragraph (1)(b), the words “or 6” were omitted;
- (b) in paragraph (2)(b), the words “an outline statement under rule 5 or” were omitted.

Modification of rules 14(1), 15(6) and 16(8)

8. Rules 14(1), 15(6) and 16(8) have effect as if the words “an outline statement under rule 5 or” were omitted.

Modification of rule 18

9. Rule 18 (procedure after inquiry) has effect as if there were substituted—

“Procedure after inquiry

18.—(1) Within 10 business days beginning with the day after the day on which the inquiry closes, the inspector must inform the relevant parties in writing of the expected date of his decision.

(2) For the purposes of paragraph (1), the relevant parties are—

- (a) the acquiring authority;
- (b) each remaining objector;
- (c) any person entitled to appear at the inquiry who did appear at it; and
- (d) any other person who, having appeared at the inquiry, asked to be notified of the decision.

(3) After the close of the inquiry, the inspector must make a report in writing which he must incorporate into the notice of his decision under rule 19(1).

(4) 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 the assessor was appointed to advise.

(5) Where the assessor makes a report in accordance with paragraph (4), the inspector must state in his decision that such a report was made.

(6) If, after the close of an inquiry, the inspector proposes to take into consideration any new evidence or any new matter of fact, other than a matter of government policy, which was not raised at the inquiry and which he considers to be material to his decision, he must not come to a decision without first notifying the persons who appeared at the inquiry of the matter in question.

(7) The inspector must give every person notified under paragraph (6) an opportunity of making written representations to him, or of asking for the re-opening of the inquiry.

(8) Any representations or request to re-open the inquiry under paragraph (7) must be sent to the authorising authority within 3 weeks of the date of the inspector’s notification under paragraph (6).

(9) The inspector may as, as he thinks fit, cause an inquiry to be re-opened to afford an opportunity for persons to be heard on such matters relating to the order as he may specify, and must do so if asked by the acquiring authority or by a remaining objector under paragraph (7) and within the period mentioned in paragraph (8).

(10) Where an inquiry is re-opened—

- (a) the inspector must send to those persons entitled to appear at the inquiry who appeared at it a written statement of the specified matters referred to in paragraph (9); and
- (b) paragraphs (2) to (5) of rule 10 apply as if—
 - (i) references to an inquiry were references to a re-opened inquiry; and
 - (ii) in paragraph (2) of rule 10, for “6 weeks”, there were substituted “4 weeks”.

Modification of rule 19

10. Rule 19 (notice of decision) has effect as if there were substituted—

“Notice of decision

19.—(1) The inspector must give notice of his decision and the reasons for it in writing to—

- (a) the acquiring authority;
- (b) each remaining objector;
- (c) any person entitled to appear at the inquiry who did appear at it; and
- (d) any other person who, having appeared at the inquiry, asked to be notified of the decision.

(2) Any person entitled to be notified of the inspector’s decision under paragraph (1) may apply, within 4 weeks beginning with the date of the decision, to the authorising authority in writing for an opportunity to see any documents listed in the notice of the inspector’s decision or any report made by an assessor, and the authorising authority must afford the person that opportunity.”.

Modification of rule 19A and application of new rule 19B

11. Rule 19A (procedure following quashing of decision) has effect as if there were substituted—

“Procedure following quashing of decision

19A.—(1) Where a decision notified under rule 19(1) is quashed, in full or in part, in proceedings before any court, the authorising authority—

- (a) must send to any person who was entitled to appear at the inquiry a written statement of the matters with respect to which further representations are invited for the purposes of the further consideration of the order by an inspector (who may or may not be the inspector who made the decision originally notified under rule 19(1));
- (b) must afford to those persons the opportunity of making written representations to the inspector in respect of those matters or of asking for the re-opening of the inquiry.

(2) Those persons making representations or asking for the inquiry to be re-opened under paragraph (1)(b) must ensure that such representations or requests are received by the authorising authority within 3 weeks beginning with the date of the written statement sent under paragraph (1)(a).

(3) The inspector may, as he thinks fit, cause the inquiry to be re-opened and, if he does so, paragraphs (2) to (5) of rule 10 apply as if references to an inquiry were references to a re-opened inquiry.

Inspector may act in place of the authorising authority

19B. An inspector may in place of the authorising authority take such steps as the authorising authority is required or enabled to take under rules 7(3) and (4) and 20.”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Compulsory Purchase (Inquiries Procedure) Rules 2007 (SI 2007/3617) (“the 2007 Rules”). They come into force on 6th April 2018.

Part 1 contains preliminary matters.

Part 2 sets out miscellaneous amendments to the 2007 Rules.

Rule 4 amends the table of contents for the 2007 Rules.

Rule 5 inserts a new rule 2A into the 2007 Rules. New rule 2A provides that where a person is appointed under section 14D of the Acquisition of Land Act 1981 (“the 1981 Act”) the 2007 Rules shall have effect subject to certain modifications. Section 14D of the 1981 Act provides that a confirming authority may appoint a person to act instead of it in relation to the confirmation of a compulsory purchase order to which section 13A of that Act applies. The modifications are set out in a new Schedule to the 2007 Rules (which is inserted by rule 8 of these Rules).

Rule 6 inserts a new paragraph (A1) into rule 18 of the 2007 Rules to impose a new requirement on the authorising authority to inform the persons listed in rule 19(1) of the 2007 Rules of the expected date of its decision as to whether to confirm the compulsory purchase order.

Rule 7 inserts a new rule 19A into the 2007 Rules which sets out the procedure to be followed where a decision notified under rule 19(1) is quashed in proceedings before any court.

Rule 8 inserts a new Schedule into the 2007 Rules.

Part 3 concerns electronic communications.

Rule 9 amends rule 2 of the 2007 Rules in order to facilitate the use of electronic communications for the service of notices and other documents which are required or authorised to be sent under the 2007 Rules.

Rule 10 substitutes a new version of rule 21 into the 2007 Rules which makes clear that notices or documents required or authorised to be sent under the 2007 Rules may be sent by post or by using electronic communications.

Rule 11 inserts a new rule 21A into the 2007 Rules which provides for how a person may withdraw their consent to use of electronic communications.

A final impact assessment was produced for Part 7 of the Housing and Planning Act 2016 (c. 22) on compulsory purchase, which, among other things, introduced section 14D (power to appoint an inspector) into the 1981 Act and inserted subsection (3) into section 24 of that Act (powers of the court). A copy of that impact assessment is available online at: <https://www.parliament.uk/documents/impact-assessments/IA16-002I.pdf>. No additional impact assessment has been produced in respect of this instrument as no additional impact on the private or voluntary sectors is foreseen.

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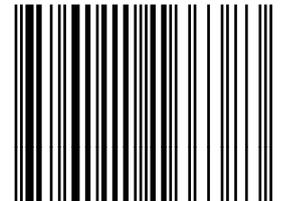
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