
STATUTORY INSTRUMENTS

1998 No. 2313 (S.120)

TRIBUNALS AND INQUIRIES

**The Compulsory Purchase by Public Authorities
(Inquiries Procedure) (Scotland) Rules 1998**

<i>Made</i>	- - - -	<i>21st August 1998</i>
<i>Laid before Parliament</i>		<i>21st September 1998</i>
<i>Coming into force</i>	- -	<i>1st November 1998</i>

The Lord Advocate, in exercise of the powers conferred on him by section 9 of the Tribunals and Inquiries Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Compulsory Purchase by Public Authorities (Inquiries Procedure) (Scotland) Rules 1998 and shall come into force on 1st November 1998.

Application of Rules

2.—(1) Subject to paragraph (2), these Rules apply in relation to any inquiry which is caused by the Secretary of State to be held under the provisions of section 5(2) of, or the First Schedule to, the Act for the purpose of inquiring into the authorisation of any compulsory purchase of land by a public authority.

(2) Where a public authority has, prior to the date on which these Rules come into force, submitted a compulsory purchase order to the Secretary of State for confirmation and on that date no decision as to confirmation has been issued—

- (a) where a local inquiry has been opened but the reporter has not yet reported, the 1976 Rules shall continue to regulate the procedure until immediately before he reports, but these Rules shall apply to the making of the report and all subsequent procedures;
- (b) where a local inquiry has not been opened, the 1976 Rules shall continue to apply until the inquiry is opened, but these Rules shall apply thereafter.

⁽¹⁾ 1992 c. 53.

⁽²⁾ Section 5 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 was amended by the Local Government Finance Act 1988 (c. 41), Schedule 13, Part IV.

Interpretation

3. In these Rules—

“the Act” means the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947⁽³⁾;

“acquiring authority” means a public authority which has, under the provisions of the First Schedule to the Act, made and submitted to the Secretary of State for confirmation an order authorising the compulsory purchase of land;

“document” includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film, negative, tape, disc or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom;

“inquiry” means a local inquiry to which these Rules apply;

“the land” means the land to which the order relates or, where a right over land is proposed to be acquired, the land over which such a right would be exercised;

“order” means an order authorising the compulsory purchase of land which a public authority has made and submitted to the Secretary of State for confirmation.

“outline statement” means a written statement of the principal submissions which a person proposes to put forward at an inquiry together with a list (so far as then known) of the documents (if any) which that person intends to refer to, rely on or put in evidence;

“precognition” means a written statement of the evidence which it is proposed that a witness will give to the 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 two or more such meetings are held references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;

“public authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁴⁾ or a joint board (within the meaning given by section 235(1) of the Local Government (Scotland) Act 1973⁽⁵⁾);

“relevant date” means the date of the Secretary of State’s notice to the acquiring authority under rule 4(a), and “relevant notice” means that notice;

“relevant person” means a person who has been required to serve a statement of case in terms of rule 11(1);

“reporter” means the person appointed by the Secretary of State to hold the inquiry and to report thereon to him;

“statement of case” means, and is comprised of—

- (a) a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry; and
- (b) a list of documents (if any) which the person putting forward that case intends to refer to, rely on or put in evidence;

(3) 1947 c. 42.

(4) 1994 c. 39.

(5) 1973 c. 65.

“statement of matters” means a statement by the Secretary of State of the matters which appear to him to be likely to be relevant to his consideration of the order;

“statutory objector” means an owner, lessee, or occupier of the land or any part thereof, who, being entitled to be served with notice of the making of the order, has duly objected to the making thereof in accordance with the provisions of the First Schedule to the Act and whose objection has not been withdrawn, or whose objection has not been disregarded under—

- (a) paragraph 4(4) of that Schedule; or
- (b) section 200(1) of the Town and Country Planning (Scotland) Act 1997⁽⁶⁾;

“the 1976 Rules” means the Compulsory Purchase by Public Authorities (Inquiries Procedure) (Scotland) Rules 1976⁽⁷⁾.

Preliminary action to be taken by the Secretary of State

4. The Secretary of State, if he intends to cause an inquiry to be held, shall give written notice—
- (a) of that intention to –
 - (i) the acquiring authority;
 - (ii) each statutory objector; and
 - (iii) every other person who has made a representation about the order to the Secretary of State, and
 - (b) to the acquiring authority of the substance of each objection made by a statutory objector, and, so far as practicable, of the substance of any other objections.

Preliminary action – acquiring authority and government departments

5.—(1) The acquiring authority, not later than 2 weeks after the relevant date, shall (unless it has already done so)—

- (a) serve on each statutory objector a written statement of its reasons for making the order; and
- (b) send a copy of the statement to the Secretary of State, and to any government department which has expressed in writing to the acquiring authority a view with respect to the proposals contained in the order where reference to that view has been included in the statement.

(2) Where an acquiring authority considers a written representation by a government department to be relevant to that authority’s submissions at the inquiry, it shall not later than 2 weeks after receipt either of that representation or of the relevant notice (whichever is the later) send notification to the government department concerned that an inquiry is to be held; and the government department shall (unless it has already done so) supply to the acquiring authority a written statement setting out in detail the reasons for that representation.

Alternative site

6.—(1) Where an objection duly made or a statement of case shows that a person proposes an alternative site for the purpose envisaged by the order, that person shall, on being so required by the Secretary of State, provide him with sufficient details of the proposed alternative site to enable it to be identified and shall, at the same time, send a copy of those details to any other person on whom the statement of case has been served.

(6) 1997 c. 8.
(7) S.I.1976/1559.

(2) Where details are provided to the Secretary of State under paragraph (1), he shall give such notification of these details to any owner of the land comprising the alternative site as he thinks proper in the circumstances.

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

7.—(1) The Secretary of State may cause a pre-inquiry meeting to be held if it appears to him desirable and, where he does so, paragraphs (2) to (11) apply.

(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 acquiring authority shall, not later than 8 weeks after the relevant date (or such other date as the person appointed for the purpose of paragraph (10), after considering any representations from such parties as he thinks fit, may determine), serve an outline statement on the Secretary of State and on each statutory objector.

(4) The acquiring authority shall—

- (a) include in or attach to their outline statement the text of any written representation or written statement as referred to in rule 5(2); and
- (b) within the period mentioned in paragraph (3), supply a copy of their outline statement and of any such attachments to the government department concerned.

(5) The Secretary of State may by notice in writing require any statutory objector and any other person who has notified him of an intention or a wish to appear at the inquiry to serve, not later than 4 weeks after being so required (or such other date as the person appointed for the purpose of paragraph (10), after considering any representations from such parties as he thinks fit, may determine), an outline statement on him, on the acquiring authority and on any other person specified in such notice.

(6) Where a person is required to serve an outline statement in terms of paragraph (5) the Secretary of State may require, by such date as he may determine, service on such person by any other party of the outline statement of that other party.

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

(8) The Secretary of State shall give not less than 3 weeks' written notice of the meeting to the acquiring authority, each statutory objector, any 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; and he may require the acquiring authority to take, in relation to notification of the meeting, one or more of the steps which he may under rule 16(6)(b) or (c) require them to take in relation to notification of the inquiry.

(9) The Secretary of State shall cause to be published in a newspaper circulating in the locality in which the land is situated a notice of his intention to cause a meeting to be held.

(10) A person appointed by the Secretary of State for the purpose shall preside and shall determine the matters to be discussed and the procedure to be followed at the meeting.

(11) Where a pre-inquiry meeting has been held pursuant to paragraph (1), a further meeting may be held and, in that event, the person so appointed by the Secretary of State shall arrange for such notice to be given as appears to him necessary; and paragraph (10) shall apply to such a meeting.

Further power of reporter to hold pre-inquiry meetings

8.—(1) Where no pre-inquiry meeting is held pursuant to rule 7, the reporter may hold one if he thinks it desirable.

(2) The reporter shall arrange for not less than 2 weeks' written notice of a meeting he proposes to hold under paragraph (1) to be given to the acquiring authority, each statutory objector, any 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) Where the reporter proposes to hold a meeting under paragraph (1), he—

(a) may by notice in writing require, by such date as he may determine, the acquiring authority, any statutory objector or any other person who has notified an intention or a wish to appear at the inquiry to serve an outline statement on the acquiring authority, each statutory objector or such other person, as the case may be, and on the Secretary of State;

(b) shall preside and shall determine the matters to be discussed and the procedure to be followed at the meeting.

(4) Where a pre-inquiry meeting has been held pursuant to paragraph (1), a further meeting may be held and, in that event, the reporter shall arrange for such notice to be given as appears to him to be necessary; and paragraph (3)(b) shall apply to such a meeting.

Service of statements of case – acquiring authority

9.—(1) Subject to rule 13, the acquiring authority shall, not later than—

(a) where no pre-inquiry meeting is held pursuant to rule 7, 8 weeks after the relevant date; or

(b) where a pre-inquiry meeting is held pursuant to rule 7, 4 weeks after the conclusion of that meeting,

and in any case not later than 4 weeks before the date fixed for the holding of the inquiry, serve a statement of case on the Secretary of State, each statutory objector and each relevant person.

(2) The acquiring authority shall include in or attach to their statement of case, except insofar as already provided, copies of all representations received by them in relation to the order including the text of any written representation or written statement as referred to in rule 5(2) and shall serve a copy of the statement of case on the government department concerned.

Service of statements of case – statutory objectors

10. Subject to rule 13, each statutory objector shall, not later than—

(a) where no pre-inquiry meeting is held pursuant to rule 7, 8 weeks after the relevant date; or

(b) where a pre-inquiry meeting is held pursuant to rule 7, 4 weeks after the conclusion of that meeting,

and in any case not later than 4 weeks before the date fixed for the holding of the inquiry, serve a statement of case on the Secretary of State, the acquiring authority, every other statutory objector and each relevant person.

Service of statements of case – other persons

11.—(1) The Secretary of State or a reporter may in writing require any other person who has notified him of an intention or a wish to appear at an inquiry to serve a statement of case, within 4 weeks of being so required, and in any event not later than 4 weeks before the date fixed for the holding of the inquiry, on the acquiring authority, the Secretary of State, each statutory objector and every other relevant person.

(2) The Secretary of State or a reporter, as the case may be, shall supply any person from whom he requires a statement of case in accordance with paragraph (1) with a copy of the statement of case of the acquiring authority, each statutory objector and every other relevant person and shall inform

that person of the name and address of every person on whom his statement of case is required to be served.

Service of amended statements of case

12. Where prior to the commencement of the inquiry any person who has served a statement of case on the Secretary of State—

- (a) intends to put forward at the inquiry a case materially different from the case set out in the statement of case; or
- (b) is required by the Secretary of State or a reporter to provide such further information about the matters contained in the statement as may be specified,

that person shall provide the Secretary of State, or as the case may be the reporter, with an amended or additional statement and shall, at the same time, send a copy to any other person on whom the statement of case has been served.

Statements of case – dispensing with service

13.—(1) A person required to serve a statement of case under rule 9, 10 or 11 may request the Secretary of State or the reporter to give a direction to him under paragraph (3).

(2) The Secretary of State or the reporter may give such a direction if he considers it expedient to do so, having regard to the length of the statement of case of the person requesting the direction and the number of persons on whom it would otherwise require to be served.

(3) A person to whom a direction is given under this paragraph shall—

- (a) effect service only on the Secretary of State and the acquiring authority in accordance with whichever of rule 9, 10 or 11 is applicable;
- (b) give to all other persons on whom service would otherwise be required under that rule notice stating the time and place at which the statement of case (and, if applicable, the representations) may be inspected by them; and
- (c) afford to those persons a reasonable opportunity to inspect and, where practicable, take copies of those documents.

(4) Where a direction under paragraph (3) is given to a person and that person subsequently provides an amended or additional statement under rule 12, he—

- (a) shall send a copy of that statement to every person mentioned in paragraph (3)(b); or
- (b) shall—
 - (i) give to every such person notice stating the time and place at which that statement may be inspected by them; and
 - (ii) afford to those persons a reasonable opportunity to inspect and, where practicable, take copies of that statement.

Precognitions

14.—(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 reference to a precognition shall send a copy of the precognition to the reporter together with, subject to paragraph (2), a written summary.

(2) A written summary shall not be required in relation to a precognition which contains fewer than 2000 words.

(3) The precognition and any summary shall be sent to the reporter—

- (a) not later than 2 weeks before the date fixed for the holding of the inquiry; or

(b) by such other date as the reporter may specify.

(4) Where a person sends a copy of the precognition to a reporter in accordance with paragraph (1), he shall at the same time send a copy of that precognition and any summary to the acquiring authority, each statutory objector and each relevant person.

(5) Where a written summary is provided in accordance with paragraph (1), only that summary shall be read out at the inquiry, unless the reporter permits or requires otherwise.

(6) Any person required by this rule to send a copy of a precognition 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 a copy of the document or part of the document in question is already available for inspection pursuant to rule 15(2) or has already been provided to that other person pursuant to rule 15(3).

(7) The acquiring authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any precognition, summary or document sent to or by them in accordance with this rule.

Service of statements of case, documents and precognitions

15.—(1) Any person who serves a statement of case on the acquiring authority shall not be obliged to serve with it a copy of any document, or of the relevant part of any document, if a copy of the document or part of the document in question is already available for inspection pursuant to paragraph (2).

(2) The acquiring authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any statement of case (or any part thereof) or other document which, or a copy of which, has been served on them in accordance with this rule or rule 10 or 11 or of their statement of case (or any part thereof); and shall specify in their statement of case the time and place at which the opportunity will be afforded.

(3) Where any party intends to rely on or put in evidence any documents, that party shall, not later than 4 weeks before the date fixed for the holding of the inquiry, provide copies of those documents (or the relevant parts of those documents) to—

- (a) the acquiring authority;
- (b) each statutory objector;
- (c) each relevant person; and
- (d) the Secretary of State,

and the acquiring authority shall, for the purposes of compliance by them with the duty imposed by paragraph (2) in respect of their statement of case, make such statement available by said date.

(4) The reporter, on the application of a party, may vary any time limit imposed on that party by rule 9, 10, 11 or 14 or by paragraph (3) of this rule.

Date and notification of inquiry

16.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be, unless he considers such a date impracticable, not later than—

- (a) 24 weeks after the relevant date; or
- (b) in a case where a pre-inquiry meeting is held pursuant to rule 7, 8 weeks after the conclusion of that meeting.

(2) Where the Secretary of State considers it impracticable to fix a date in accordance with paragraph (1), the date fixed shall be the earliest date which he considers to be practicable.

(3) Subject to paragraphs (1) and (2), a date, time and place for the holding of the inquiry shall be fixed by the Secretary of State who shall give not less than 4 weeks' notice in writing of such date, time and place to—

- (a) the acquiring authority;
- (b) all statutory objectors at the addresses furnished by them;
- (c) all relevant persons; and
- (d) the owner of any land which is proposed as an alternative site as mentioned in rule 6.

(4) With the consent in writing of the acquiring authority, each statutory objector and each relevant person, the Secretary of State may give such lesser period of notice than that specified in paragraph (3) as may be agreed with them and in that event he may specify a date for service of the statements or other documents referred to in rules 9, 10 or 11 other than the date prescribed in those rules.

(5) The Secretary of State may vary the date, time and place fixed for the holding of the inquiry and he shall give such notice of the variation to the parties referred to in paragraph (3) as may appear to him to be reasonable in the circumstances.

(6) Without prejudice to the foregoing provisions of this rule, where the Secretary of State has not already done so, he may require the acquiring authority to take one or more of the following steps:—

- (a) not less than 2 weeks before the date fixed for the holding of the inquiry, to publish in one or more newspapers circulating in the locality in which the land is situated such notices of the inquiry as he may direct;
- (b) to serve notice of the inquiry in such form and on such persons or classes of persons as he may specify;
- (c) to post such notices of the inquiry as he may direct in a conspicuous place or places near to the land,

but the requirements as to the period of notice contained in paragraph (3) shall not apply to any such notices.

Appearances at inquiry

17.—(1) The persons entitled to appear at the inquiry shall be—

- (a) the acquiring authority;
- (b) any statutory objector;
- (c) any other person who has served a statement of case under rule 11(1).

(2) Any other person may appear at the inquiry at the discretion of the reporter.

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

(4) Where there are two or more persons having a similar interest in the matter under inquiry, the reporter may allow one or more persons to appear for the benefit of some or all of the persons so interested.

Representatives of the Secretary of State or government departments at inquiry

18.—(1) Where a government department has made a written representation or written statement as referred to in rule 5(2), any of the persons mentioned in rule 16(3) may, not later than 2 weeks before the date of the inquiry, apply in writing to the Secretary of State for a representative of the government department concerned to be made available at the inquiry.

(2) The Secretary of State shall transmit an application made to him under paragraph (1) to the department concerned who shall make a representative of the department available to attend the inquiry.

(3) A representative who, in pursuance of this rule, attends an inquiry shall state the reasons for the written representation or written statement in question and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(4) Nothing in this rule shall require a representative of a government department to answer any question which in the opinion of the reporter is directed to the merits of government policy and the reporter shall disallow any such question.

Procedure at inquiry

19.—(1) Except as otherwise provided in these Rules, the procedure at the inquiry shall be such as the reporter shall in his discretion determine.

(2) The reporter shall state at or before the commencement of the inquiry the procedure which, subject to consideration of any submission by the parties, he proposes to adopt.

(3) Unless in any particular case the reporter otherwise determines, the acquiring authority shall begin and shall have the right of final reply; and other persons entitled or permitted to appear shall be heard in such order as the reporter may determine.

(4) Subject to paragraph (5), the acquiring authority, the statutory objectors and any relevant person shall be entitled to call evidence and to cross-examine persons giving evidence and to make closing statements but any other person appearing at the inquiry may do so only to the extent permitted by the reporter.

(5) The reporter 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.

(6) The reporter shall not require or permit the giving or production of any evidence, whether written or oral, which would be contrary to the public interest; but save as aforesaid, and without prejudice to rule 18(4) and proviso (b) to paragraph 3 and paragraph 4 of the Fourth Schedule to the Act, any evidence may be admitted at the discretion of the reporter, who may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry and that facilities be afforded him to take or obtain copies thereof.

(7) The reporter may at the inquiry allow any party to alter or add to the case contained in any statement of case or to any list of documents which accompanied such statement, so far as may be necessary for the purpose of determining the questions in dispute between the parties, but shall (if necessary by adjourning the inquiry) give the acquiring authority and all statutory objectors an adequate opportunity of considering any such alterations or additions.

(8) Where during the inquiry any party to the inquiry refers for the first time to an alternative site for the purpose envisaged by the order, the reporter may, if he thinks fit, adjourn the proceedings in order that he may notify the owner of the land proposed as an alternative site and that the acquiring authority may seek further information about it.

(9) If any person entitled to appear at the inquiry fails to do so, the reporter may proceed with the inquiry at his discretion.

(10) The reporter shall be entitled (subject to disclosure thereof at the inquiry) to take into account any written representations or statements received by him before or during the inquiry from any

person, but shall circulate such documents in advance of the inquiry where he considers this to be practicable.

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

Site inspections

20.—(1) The reporter may at any time make an unaccompanied inspection of the land without giving notice of his intention to the persons entitled or permitted to appear at the inquiry.

(2) Subject to the provisions of this rule, the reporter may, and shall if so requested by the acquiring authority or any statutory objector before or during the inquiry, inspect the land during or after the close of the inquiry in the company of such of the persons entitled under paragraph (3) to accompany him as desire to do so.

(3) Where the reporter intends to make an inspection by virtue of paragraph (2), he shall during the inquiry announce the date and time at which he proposes to do so and the acquiring authority, each statutory objector and any other party to the inquiry shall be entitled to accompany him on any such inspection.

(4) The reporter shall not be bound to defer his inspection if any person entitled to accompany him is not present at the time appointed.

Procedure after inquiry

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

(2) Where the Secretary of State—

- (a) differs from the reporter on a finding of fact; or
- (b) after the close of the inquiry proposes to take into consideration any new evidence (including expert opinion on a matter of fact) or any new issue of fact (not being a matter of government policy) which was not raised at the inquiry,

and by reason thereof is disposed to disagree with a recommendation made by the reporter, he shall not come to a decision which is at variance with any such recommendation without first notifying the acquiring authority and each statutory objector who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of—

- (i) making representations thereon in writing within 3 weeks; or
- (ii) if the Secretary of State has received new evidence or taken into consideration any new issue of fact not being a matter of government policy, asking within 3 weeks for the reopening of the inquiry.

(3) The Secretary of State may in any case if he thinks fit cause the inquiry to be reopened, and shall cause it to be reopened if asked to do so in accordance with paragraph (2), and if the inquiry is reopened, paragraphs (3) to (6) of rule 16 shall apply to the reopened inquiry with the substitution in paragraph (3) of the words “3 weeks” for the words “4 weeks”.

Notification of decision

22.—(1) The Secretary of State shall notify his decision and his reasons therefor in writing to the acquiring authority and each statutory objector and to any person who, having appeared or been represented at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the reporter's conclusions and recommendations; and if any person entitled to be notified of the Secretary of State's decision under paragraph (1) has not received a copy of the report, he shall be supplied with a copy thereof on written application made to the Secretary of State within 6 weeks from the date of his decision.

(3) For the purpose of this rule, "report" means the report submitted to the Secretary of State but does not include documents appended to the report; and any person entitled to be notified of the Secretary of State's decision under paragraph (1) may apply to the Secretary of State in writing within 6 weeks of the notification to him of the decision or the supply to him of the report, whichever is the later, for an opportunity of inspecting such documents, and the Secretary of State shall afford him an opportunity accordingly.

Allowing further time

23. 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

24. Subject to the provisions of paragraph 19 of the First Schedule to the Act⁽⁸⁾, notices or documents required or authorised to be served or sent under the provisions of any of these Rules may be sent by post.

Revocation and saving

25. Subject to rule 2(2), the 1976 Rules are hereby revoked.

Lord Advocate's Chambers
21st August 1998

Hardie
Lord Advocate

⁽⁸⁾ Paragraph 19 was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Schedule 2, paragraph 6, and by the Planning and Compensation Act 1991 (c. 34), Schedule 17, paragraph 4.

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 set out the procedures to be followed relative to public inquiries held in connection with compulsory purchase orders made by Scottish local authorities and joint boards. They replace the Compulsory Purchase by Public Authorities (Inquiries Procedure) (Scotland) Rules 1976, which are revoked.

The principal changes made by these Rules (as compared to the 1976 Rules) are as follows:–

- (a) the Rules no longer apply to the conduct of hearings afforded to objectors. A non-statutory Code of Practice for such hearings has been published separately by The Scottish Office;
- (b) in order to make more effective use of pre-inquiry time, the Rules require that, wherever possible, the timescales for pre-inquiry procedures (for example the submission and circulation of parties' statements of case) are fixed by forward reference from the date when it is decided that the case will go to inquiry – “the relevant date”;
- (c) rules 7 and 8 provide a statutory framework for the holding of pre-inquiry meetings;
- (d) rule 10 places an obligation on a statutory objector to disclose at an early stage the principal basis of his case. In addition, rule 11 enables the Secretary of State or the reporter to require any other party who has notified an intention to attend the inquiry to submit a statement of case prior to the commencement of that inquiry;
- (e) where a party intends to give evidence at an inquiry by reference to a precognition – a written statement of the evidence they shall give – and that precognition exceeds 2,000 words, rule 14 imposes a requirement on that party to submit a written summary of the precognition. Further, where a summary is provided, only that summary shall be read out at the inquiry, although parties may be questioned on the content of their whole precognition;
- (f) rule 16 provides that the start date for the inquiry shall not be later than 24 weeks after the relevant date or, where a pre-inquiry meeting is held, not later than 8 weeks after the conclusion of that meeting, unless the Secretary of State considers such a date impracticable;
- (g) rule 19 provides that the acquiring authority shall normally begin and shall have the final right of reply at the inquiry. This rule also clarifies the reporter’s powers to restrict the giving of evidence which is repetitious or irrelevant;
- (h) under rule 21 the reporter is no longer obliged to circulate Part I of his report in draft to the parties.

There are also a number of minor and drafting amendments, as compared to the 1976 Rules.