

1966 No. 1375

TRIBUNALS AND INQUIRIES
**The Gas (Underground Storage)
(Inquiries Procedure) Rules 1966**

Made - - - - - 3rd November 1966
Laid before Parliament 10th November 1966
Coming into Operation 1st December 1966

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 7A of the Tribunals and Inquiries Act 1958(a) (inserted in that Act by section 33 of the Town and Country Planning Act 1959(b)) and after consultation with the Council on Tribunals, hereby make the following Rules:—

Citation and Commencement

1. These Rules may be cited as the Gas (Underground Storage) (Inquiries Procedure) Rules 1966, and shall come into operation on the 1st December 1966.

Application of Rules

2. These Rules apply to public local inquiries held by the Minister of Power in accordance with paragraph 8 of Schedule 2 to the Gas Act 1965(c) (hereinafter referred to as "the Act") for the purpose of inquiring into applications by gas authorities for orders authorising the storage of gas underground and (subject to the modifications set out in rule 13) to public local inquiries held in accordance with paragraph 12 of that Schedule.

Interpretation

3.—(1) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) Unless the context otherwise requires, expressions used in these Rules shall have the same meanings as in the Act.

(3) In these Rules—

"application" means an application made to the Minister for a storage authorisation order under paragraph 6 of Schedule 2 to the Act;

"applicants" means the gas authority making the application;

"appointed person" means the person appointed by the Minister to hold the inquiry;

"inquiry" means a public local inquiry to which these Rules apply;

"the Minister" means the Minister of Power;

"statutory objector" means any person who, being entitled to be served with a notice of the application, has duly objected thereto in accordance

(a) 1958 c. 66.
(c) 1965 c. 36.

(b) 1959 c. 53.
(d) 1889 c. 63.

with paragraph 7 of Schedule 2 to the Act and whose objection has not been withdrawn or disregarded in accordance with paragraph 8 of that Schedule.

Procedure before Inquiry

4.—(1) The Minister shall as soon as may be notify the applicants of the substance of each objection received by him from a statutory objector and, so far as practicable, shall also notify the applicants of the substance of other objections.

(2) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Minister, who shall give not less than 42 days' notice in writing of such date, time and place to the applicants and to every statutory objector at the address furnished to the Minister:

Provided that—

- (i) with the consent in writing of the statutory objectors and of the applicants, the Minister may give such lesser period of notice as shall be agreed with the statutory objectors and the applicants and in that event he may specify a date for service of the statement referred to in paragraph (1) of rule 5 later than the date therein prescribed;
 - (ii) where it becomes necessary or advisable to vary the time or place fixed for the inquiry, the Minister shall give such notice of the variation as may appear to him to be reasonable in the circumstances.
- (3) The Minister may require the applicants—
- (a) to publish in one or more newspapers circulating in the locality or localities in which the storage and protective areas are, 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 give such other notices of the inquiry as he may direct.

Statement to be served before Inquiry

5.—(1) As soon as may be after receiving notification of the substance of the objections of statutory objectors and in any event (except where the Minister specifies a later date under proviso (i) to paragraph (2) of rule 4) not later than 28 days before the date of the inquiry, the applicants shall, unless they have already done so, serve on each statutory objector a written statement of the submissions that they propose to make at the inquiry and shall supply a copy of the statement to the Minister.

(2) Where a government department has expressed in writing to the applicants a view in support of the application and the applicants propose to rely on such expression of view in their submissions at the inquiry, they shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of their statement to the government department concerned.

(3) Where the applicants intend to refer to or put in evidence at the inquiry documents (including maps and plans), their statement shall be accompanied by a list of such documents, together with a notice stating the times and place at which the documents may be inspected by any statutory objector; and the applicants shall afford every statutory objector a reasonable opportunity to inspect and, where practicable, take copies of the documents.

(4) The applicants shall afford any other person interested a reasonable opportunity to inspect and, where practicable, to take copies of their statement and of the other documents referred to in the last foregoing paragraph.

Appearances at Inquiry

6.—(1) The applicants, statutory objectors and any persons on whom the Minister has required notice to be served under rule 4(3)(b) shall be entitled to appear at the inquiry.

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

(3) A body corporate may appear by its clerk or secretary or by any other officer appointed for the purpose by that body, or by counsel or solicitor; and any other person may appear on his own behalf or be represented by counsel, solicitor or any other person.

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

Representatives of Government Departments at Inquiry

7.—(1) Where a government department has expressed in writing to the applicants a view in support of the application and the applicants have set out such a view in the statement referred to in paragraph (1) of rule 5, any statutory objector may, not later than 14 days before the date of the inquiry, apply in writing to the Minister for a representative of the government department concerned to be made available at the inquiry.

(2) The Minister shall transmit any application made to him under the last foregoing paragraph to the government department concerned, who shall make a representative of the department available to attend the inquiry.

(3) The said representative shall at the inquiry state the reasons for the view expressed by his department and shall give evidence and be subject to cross-examination to the same extent as other witnesses: Provided that the appointed person shall disallow any questions which in his opinion are directed to the merits of government policy.

Procedure at Inquiry

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

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

(3) The applicants and the statutory objectors shall be entitled to call evidence and cross-examine persons giving evidence, but any other person appearing at the inquiry may do so only to the extent permitted by the appointed person.

(4) The appointed person 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 paragraph (3) of rule 7 any evidence may be admitted at the discretion of the appointed person, 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.

(5) The appointed person may allow the applicants to alter or add to the submissions contained in the statement served under paragraph (1) of rule 5 or to any list of documents which accompanied such statement, so far as may be necessary for the purpose of determining the questions in controversy between the parties, but shall (if necessary by adjourning the inquiry) give every

statutory objector an adequate opportunity of considering any fresh submission or document; and the appointed person may make in his report a recommendation as to the payment of any additional costs occasioned by such an adjournment.

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

(7) The appointed person shall be entitled (subject to disclosure thereof at the inquiry) to take into account any written representations or statement received by him before the inquiry from any person.

(8) The appointed person 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

9.—(1) The appointed person may make unaccompanied inspections of the storage and protective areas before or during the inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.

(2) The appointed person may, and shall if so requested by the applicants or any statutory objector before or during the inquiry, inspect the storage and protective areas or any part thereof after the close of the inquiry, and shall, in all cases where he intends to make such an inspection, announce during the inquiry the date and time at which he proposes to do so.

(3) The applicants and the statutory objectors shall be entitled to accompany the appointed person on any inspection after the close of the inquiry; but the appointed person 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

10.—(1) The appointed person shall after the close of the inquiry make a report in writing to the Minister which shall include the appointed person's findings of fact and his recommendations, if any, or his reason for not making any recommendations.

(2) Where the Minister—

(a) differs from the appointed person on a finding of fact, or

(b) after the close of the inquiry takes 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 appointed person, he shall not come to a decision which is at variance with any such recommendation without first notifying the applicants and any statutory objector who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within 21 days or (if the Minister has taken into consideration any new evidence or any new issue of fact, not being a matter of government policy) of asking within 21 days for the re-opening of the inquiry.

(3) The Minister may in any case if he thinks fit cause the inquiry to be re-opened, and shall cause it to be re-opened if asked to do so in accordance with the last foregoing paragraph; and, if the inquiry is re-opened, paragraphs (2) and (3) of rule 4 shall apply as they applied to the original inquiry, with the substitution in paragraph (2) of " 28 " for " 42 ".

(4) In this rule "new evidence" includes any fact, information, or statement of opinion on a matter of fact which was taken into consideration by the Minister for the purposes of his decision upon the proposals submitted to him by the applicants in accordance with paragraph 3 of Schedule 2 to the Act and which was not disclosed at the inquiry in such a way as to give any person appearing at the inquiry an opportunity of dealing with it by way of cross-examination or otherwise.

Notification of Decision

11.—(1) The Minister shall notify his decision, and his reasons therefor, in writing to the applicants, the statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision; and, where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the appointed person's conclusions and recommendations.

(2) If any person entitled to be notified of the Minister's decision under the last foregoing paragraph has not received a copy of the appointed person's report, he shall be supplied with a copy thereof on written application made to the Minister within 28 days from the date of his decision.

(3) For the purposes of this rule "report" does not include documents, photographs or plans appended to the report.

Service of Notices by Post

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

Inquiries held under Paragraph 12 of Schedule 2 of the Act

13. The following modifications shall be made in these Rules in their application to public local inquiries held in accordance with paragraph 12 of Schedule 2 to the Act, that is to say—

(1) "statutory objector" shall mean any person who, being entitled to be served with notice of the proposal to include additional land in the protective area, has duly objected to that proposal and whose objection has not been withdrawn or disregarded in accordance with the said paragraph.

(2) The Minister shall not later than 28 days before the date of the inquiry (or such later date as he may specify under proviso (i) to paragraph (2) of rule 4) serve on each statutory objector a written statement of the reasons for the proposal to include additional land in the protective area.

(3) Any statutory objector may, not later than 14 days before the date of the inquiry, apply in writing to the Minister to make a representative of his department available at the inquiry; and on such application the Minister shall make a representative of his department available who shall at the inquiry answer questions in elucidation of the statement referred to in the last foregoing paragraph, not being questions which, in the opinion of the appointed person, are directed to the merits of government policy.

(4) Rule 9 shall apply to the additional land proposed to be included in the protective area as it applies to that area.

Dated 3rd November 1966.

Gardiner, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules prescribe the procedure to be followed at public local inquiries into applications made by the Gas Council or Area Gas Boards to the Minister of Power for the authorisation of the storage of gas in natural porous strata underground, and at public local inquiries into a proposal by the Minister of Power to make a storage authorisation order which enlarges the protective area described in the application made to the Minister.

Rule 4 prescribes the procedure before the inquiry. It requires the Minister of Power to notify the gas authority of the substance of any objections he has received. Not less than 42 days' notice of the inquiry must be given by the Minister, unless the parties agree to shorter notice. Rule 5 requires the gas authority, if they have not already done so, to serve on each statutory objector a written statement of the submissions that they propose to make at the inquiry, and the statement must include any views expressed in writing by a government department to the gas authority in support of the application. Any person interested must be given a reasonable opportunity of inspecting and taking copies of the statement.

Rule 6 describes the persons who are entitled to appear at the inquiry; and gives to the person holding the inquiry the discretion to allow any other person to appear. Rule 7 provides for the representation, at the request of any statutory objector, of any government department which has expressed a view in support of the gas authority's application.

Rule 8 prescribes the procedure at the inquiry, and Rule 9 makes provision for the inspection of the land concerned by the person appointed to hold the inquiry.

Rule 10 provides for the appointed person making a report to the Minister, which must include his findings of fact and his recommendations, if any, or reasons for not making any recommendations. Where the Minister differs from the appointed person on a finding of fact or after the close of the inquiry takes 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) and is in consequence disposed to disagree with any recommendation made by the appointed person, he must not come to a decision at variance with the recommendation without first giving the gas authority and any statutory objector who appeared at the inquiry an opportunity of making representations or (if the Minister has taken into consideration any new evidence or new issue of fact) of having the inquiry re-opened.

Rule 11 requires the Minister to notify his decision and reasons to the gas authority and the statutory objectors, and to any other person who appeared at the inquiry and who has asked to be notified.

Rule 13 sets out the modifications in the Rules in their application to a public local inquiry in the case of a proposal by the Minister of Power to make a storage authorisation order which enlarges the protective area described in the application.