

1990 No. 512

TRIBUNALS AND INQUIRIES

**The Compulsory Purchase by Non-Ministerial Acquiring
Authorities (Inquiries Procedure) Rules 1990**

<i>Made - - - -</i>	<i>7th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>31st March 1990</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971^(a), 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 Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990, and shall come into force on 31st March 1990.

Interpretation

2. In these Rules, unless the context otherwise requires, references to sections and Parts are references to sections and Parts of the Acquisition of Land Act 1981^(b), and—

“acquiring authority” means a local authority or any person (other than a Minister) who may be authorised to purchase land compulsorily and who has made and submitted an order to the Secretary of State for confirmation in accordance with Part II;

“assessor” means a person appointed by the Secretary of State to sit with an inspector at an inquiry or re-opened inquiry to advise the inspector on such matters arising as the Secretary of State may specify;

“clearance area order” means a compulsory purchase order made pursuant to section 290 of the Housing Act 1985^(c);

“document” includes a photograph, map or plan;

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

“inspector” means a person appointed by the Secretary of State to hold an inquiry or a re-opened inquiry;

“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;

“official body” means a Minister of the Crown or a government department;

“official case” means a written statement by an official body setting out in detail its case in support of an order;

“official representation” means a written representation made by an official body in support of an order;

^(a) 1971 c.62.

^(b) 1981 c.67.

^(c) 1985 c.68; paragraphs 72 and 73 of Schedule 9 to the Local Government and Housing Act 1989 (c.42) amend or repeal relevant provisions in the Housing Act 1985 which relate to clearance area orders.

"order" means a compulsory purchase order as defined in section 7, or a compulsory rights order made pursuant to section 4 of the Opencast Coal Act 1958(a);

"outline statement" means a written statement of the principal submissions which a person proposes to put forward at an 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;

"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;

"statement of case" means a written statement containing full particulars of the case which a person proposes to put forward at the inquiry (including, where that person is the acquiring authority, the reasons for making the order), together with copies of any documents referred to in such statement, or the relevant extracts therefrom, and a list of any documents to which that person intends to refer or which he intends to put in evidence;

"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 in question;

"statutory objector" means any objector to whom the Secretary of State is obliged by virtue of section 13(2) to afford an opportunity to be heard; and

"the 1976 Rules" means the Compulsory Purchase by Public Authorities (Inquiries Procedure) Rules 1976(b).

Application of Rules

3.—(1) Subject to paragraphs (2) to (4), and to the provisions of rule 22(1) in respect of clearance area orders, these Rules shall apply in relation to any inquiry which is caused by the Secretary of State to be held in England or Wales pursuant to section 5, and which concerns an order made by an acquiring authority.

(2) The following paragraphs of this rule apply where a public authority (as defined in rule 3 of the 1976 Rules) has, prior to the date on which these Rules come into force ("the commencement date") submitted a compulsory purchase order to the Secretary of State for confirmation, and on that date no decision as to confirmation has been issued.

(3) Where at the commencement date a local inquiry has been opened but the inspector 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.

(4) Where at the commencement date 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.

Preliminary action to be taken by the Secretary of State

4. Where the Secretary of State intends to cause an inquiry to be held, he shall, not later than 14 days after either the expiry of the time within which objections to the order may be made, or the submission of the order to the Secretary of State for confirmation (whichever is the later), give written notice—

(a) to the acquiring authority and to each statutory objector of that intention; 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.

(a) 1958 c.69; section 4 has been amended by the Coal Industry Act 1975 (c.56), section 4, the Acquisition of Land Act 1981 (c.67), Schedule 4, paragraph 11 and Schedule 6, and the Housing and Planning Act 1986 (c.63), Schedule 8, paragraph 2.

(b) S.I. 1976/746.

Preliminary action—acquiring authorities and official bodies

5. Where an acquiring authority proposes to rely, in its submissions at the inquiry, on an official representation, it shall within 7 days of receipt either of that representation or of the relevant notice (whichever is the later) send notification to the official body concerned that an inquiry is to be held; and within 14 days of receipt of such notification, the official body shall (unless it has already done so) supply to the acquiring authority an official case.

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

6.—(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 the following paragraphs 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) Where an official representation or an official case has been made—

(a) its text shall be included in the statement of matters served under paragraph (2); and

(b) a copy of that statement shall be served on the official body concerned.

(4) The acquiring authority shall cause to be published in a newspaper circulating in the locality in which the land is situated a notice of the Secretary of State's intention to cause a meeting to be held.

(5) The notice published pursuant to paragraph (4) shall include the text of the statement of matters.

(6) The acquiring authority shall, not later than 8 weeks after the relevant date, serve on the Secretary of State and on each statutory objector an outline statement.

(7) The acquiring authority shall include the text of any official representation or official case in the outline statement, and shall, not later than 8 weeks after the relevant date, serve a copy of that statement on the official body concerned.

(8) The Secretary of State may by notice in writing require—

(a) any statutory objector; and

(b) any other person who has notified him of any intention or wish to appear at the inquiry—

within 4 weeks of the date of such notice to serve on him, on the acquiring authority and on any other person specified in such notice, an outline statement.

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

(10) The Secretary of State shall give not less than 21 days written notice of the meeting to the acquiring authority, each statutory objector, and any other person whose presence at the meeting seems 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 mentioned in rule 11(5) and (6) in relation to notification of the inquiry.

(11) The inspector shall preside at the meeting and shall determine the matters to be discussed and the procedure to be followed; and he may require any person present at the meeting who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return or to attend any further meeting, or may permit him to return or attend only on such conditions as he may specify.

(12) Where a meeting has been held pursuant to paragraph (1), the inspector may hold a further meeting; and he shall arrange for such notice to be given of a further meeting as appears to him necessary; and paragraph (11) shall apply to such a meeting.

Service of statements of case, etc.

7.—(1) The acquiring authority shall, at least 28 days before the date fixed for the inquiry and not later than—

(a) 6 weeks after the relevant date; or

(b) where a pre-inquiry meeting is held pursuant to rule 6, 4 weeks after the conclusion of that meeting—

serve a statement of case on the Secretary of State and on each statutory objector.

(2) The acquiring authority shall, unless it has done so in an outline statement served pursuant to rule 6(6), include in its statement of case the text of any official case or official representation, and shall supply a copy of the statement to the relevant official body concerned within the relevant period for service of a statement of case under paragraph (1).

(3) The Secretary of State may by notice in writing require—

(a) any statutory objector; or

(b) any other person who has notified him of an intention or a wish to appear at the inquiry—

within 4 weeks of the date of such notice to serve a statement of case on him, on the acquiring authority and on any other person specified in such notice.

(4) The Secretary of State shall supply a copy of the acquiring authority's statement of case to any person who is not a statutory objector but has been required to serve a statement of case under paragraph (3).

(5) The Secretary of State or an inspector may require any person who has served a statement of case in accordance with this rule to provide such further information about the matters contained in the statement as he may specify.

(6) Unless a statement of matters has already been served pursuant to rule 6(2), the Secretary of State may, within 12 weeks from the relevant date, serve such a statement on the acquiring authority, each statutory objector and on any person from whom he has required a statement of case.

(7) The acquiring authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, takes copies of any statement or document which, or a copy of which, has been served on or by it in accordance with any of the preceding paragraphs of this rule; and shall specify in the statement served in accordance with paragraph (1) the time and place at which the opportunity will be afforded.

Further power of inspector to hold pre-inquiry meetings

8.—(1) Where no pre-inquiry meeting is held pursuant to rule 6, an inspector may hold one if he thinks it desirable.

(2) An inspector shall arrange for not less than 14 days' written notice of a meeting he proposes to hold under paragraph (1) to be given to the acquiring authority, each statutory objector, any other 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) Rule 6(11) shall apply to a meeting held under this rule.

Inquiry timetable

9. Where a pre-inquiry meeting is held pursuant to rule 6 an inspector shall, and in any other case may, arrange a timetable for the proceedings at, or at part of, the inquiry and may at any time vary the timetable.

Notification of appointment of assessor

10. Where the Secretary of State appoints an assessor, he shall notify every person entitled to appear at the inquiry of the name of the assessor and of the matters on which he is to advise the inspector.

Date and notification of inquiry

11.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be—

(a) not later than 22 weeks after the relevant date; or

(b) in a case where a pre-inquiry meeting is held pursuant to rule 6, not later than 8 weeks after the conclusion of that meeting; or

(c) where the Secretary of State is satisfied that in all the circumstances of the case it is impracticable to hold the inquiry within the applicable period mentioned in (a) or (b), the earliest practicable date after the end of that period.

(2) Unless the Secretary of State agrees a lesser period of notice with the acquiring authority and each statutory objector, he shall give not less than 42 days written notice of the date, time and place fixed by him for the holding of an inquiry to every person mentioned in rule 12(1).

(3) The Secretary of State may vary the date fixed for the holding of an inquiry whether or not the date as varied is within the applicable period mentioned in paragraph (1); and paragraph (2) shall apply to a variation of a date as it applies to the date originally fixed.

(4) The Secretary of State may also vary the time or place for the holding of an inquiry and shall give such notice of any such variation as appears to him to be reasonable.

(5) Unless the Secretary of State otherwise directs, the acquiring authority shall, not later than 14 days before the date fixed for the holding of an inquiry, post a notice of the inquiry in a conspicuous place near to the land and also in one or more places where public notices are usually posted in the locality.

(6) If the Secretary of State so directs, the acquiring authority shall, not later than 14 days before the date fixed for the holding of the inquiry, publish in one or more of the newspapers circulating in the locality in which the land is situated a notice of the inquiry.

(7) Any notice of inquiry posted or published pursuant to paragraph (5) or (6) shall contain a clear statement of the date, time and place of the inquiry, and of the powers under which the order has been made, together with a sufficient description of the land to identify approximately its location without reference to the map referred to in the order.

Appearances at inquiry

12.—(1) The persons entitled to appear at an inquiry are:

- (a) any statutory objector;
- (b) the acquiring authority;
- (c) any other person who has served an outline statement under rule 6 or a statement of case under rule 7.

(2) Nothing in paragraph (1) shall prevent the inspector from permitting any other person to appear at an inquiry, and such permission shall not be unreasonably withheld.

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

(4) An inspector may allow one or more persons to appear on behalf of some or all of any persons having a similar interest in the matter under inquiry.

Representatives of official bodies at inquiry

13.—(1) An official body shall arrange for its representative to attend the inquiry if it has—

- (a) made an official case pursuant to rule 5; and
- (b) received, not later than 14 days before the date fixed for the holding of an inquiry, a written request for such attendance from the acquiring authority or from a statutory objector.

(2) A person attending an inquiry as a representative in pursuance of this rule shall state the reasons in support of the official case in question and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(3) Nothing in paragraph (2) shall require a representative of an official body to answer any question which in the opinion of the inspector is directed to the merits of government policy.

Statements of evidence

14.—(1) The Secretary of State may by notice in writing require any person who—

- (a) is entitled to appear at an inquiry; and
- (b) proposes to give, or call another person to give, evidence thereat by reading a written statement—

to serve a copy of that statement of evidence on the inspector, such service to be effected not later than 3 weeks before the date on which the person entitled to appear is due to give evidence in accordance with the timetable arranged pursuant to rule 9 or, if there is no such timetable, 3 weeks before the date fixed for the holding of the inquiry.

(2) An inspector may by notice in writing require any person who has served on him a copy statement pursuant to paragraph (1) to supply to him, within such period as he specifies, a written summary of the contents of that statement.

(3) Where the acquiring authority sends a copy of a statement of evidence or a summary to an inspector in accordance with paragraph (1) or (2), it shall at the same time send a copy to every other person mentioned in rule 12(1); and where any such person sends a copy statement or summary to the inspector he shall at the same time send a copy to the acquiring authority.

(4) Where the inspector has required a written summary of evidence in accordance with paragraph (2), the person giving that evidence at the inquiry shall do so only by reading the written summary, unless permitted by the inspector to do otherwise.

(5) Any person required by this rule to send a copy of a statement of evidence to any other person shall send with it a copy of the whole, or the relevant part, of any documents referred to in it, unless copies of the documents or parts of documents in question have already been made available to that person pursuant to rule 7.

Procedure at inquiry

15.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at an inquiry.

(2) Unless in any particular case the inspector with the consent of the acquiring authority otherwise determines, the authority 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 inspector may determine.

(3) A person entitled to appear at an inquiry shall be entitled to call evidence, and the acquiring authority and the statutory objectors shall be entitled to cross-examine persons giving evidence, but, subject to paragraphs (2), (4), (5) and (7), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the inspector's discretion.

(4) The inspector may refuse to permit—

- (a) the giving or production of evidence,
- (b) the cross-examination of persons giving evidence, or
- (c) the presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the close of the inquiry.

(5) Where a person gives evidence at an inquiry by reading a summary of his evidence in accordance with rule 14(4), the statement of evidence referred to in rule 14(1) shall, unless the person required to supply the summary notifies the inspector that he now wishes to rely on the contents of that summary only, be treated as tendered in evidence, and the person whose evidence the statement contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(6) The inspector may direct that facilities shall be afforded to any person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.

(7) The inspector may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify; but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.

(8) The inspector may allow any person to alter or add to a statement of case served under rule 7 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

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

(10) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.

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

Site inspections

16.—(1) The inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.

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

(3) In all cases where the inspector intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

(4) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

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

(2) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(3) Where an assessor makes a report in accordance with paragraph (2), the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(4) If, after the close of an inquiry, the Secretary of State—

(a) differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector, or

(b) takes into consideration any new evidence or new matter of fact, (not being a matter of government policy)—

and is for that reason disposed to disagree with a recommendation made by the inspector, he shall not come to a decision which is at variance with that recommendation without first notifying the persons entitled to appear at the inquiry who appeared at it of his disagreement and the reasons for it; and affording them an opportunity of making written representations to him within 21 days of the date of the notification, or (if the Secretary of State has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) of asking within that period for the re-opening of the inquiry.

(5) The Secretary of State may, 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 he shall do so if asked by the acquiring authority or by a statutory objector in the circumstances and within the period mentioned in paragraph (4); and where an inquiry is re-opened (whether by the same or a different inspector)—

- (a) the Secretary of State shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the specified matters; and
- (b) paragraphs (2) to (7) of rule 11 shall apply as if references to an inquiry were references to a re-opened inquiry, but with the substitution in paragraph (2) of "28 days" for "42 days".

Notification of decision

18.—(1) The Secretary of State shall notify his decision on the order and his reasons therefor in writing to—

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

(2) Where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a copy of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application made to the Secretary of State within 4 weeks of the date of the decision.

(3) In this rule "report" includes any assessor's report appended to the inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing, within 6 weeks of the publication of the notice of confirmation pursuant to section 15, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

Allowing further time

19. The Secretary of State may at any time in any particular case allow further time for the taking of any step which is 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 to be taken shall be construed accordingly.

Service of notices by post

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

Revocation of previous Rules

21. Subject to rule 3, the 1976 Rules are hereby revoked.

Clearance area orders

22.—(1) Notwithstanding the provisions of rule 3, these Rules shall apply in relation to an inquiry concerning a clearance area order only where that order is made on or after the coming into force of paragraphs 72 and 73 of Schedule 9 to the Local Government and Housing Act 1989(a).

(2) Where a building is included in such an order on the ground that it is unfit for human habitation, the statement of case served by the acquiring authority pursuant to rule 7(1) shall contain their principal reasons for being satisfied that the building is so unfit.

7th March 1990

Mackay of Clashfern, C.

(a) 1989 c.42.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules regulate the procedures to be followed in England and Wales in respect of public local inquiries which are held in connection with compulsory purchase orders which have been made by non-ministerial acquiring authorities and submitted to the Secretary of State for confirmation under Part II of the Acquisition of Land Act 1981.

They replace the Compulsory Purchase by Public Authorities (Inquiries Procedure) Rules 1976 (which are revoked, subject to the transitional provisions contained in rule 3) and generally contain similar procedures to those laid down in the Town and Country Planning (Inquiries Procedure) Rules 1988 (S.I. 1988/944).

These Rules establish a detailed timetable for each procedural step, and provide for exchange of information between interested parties in addition to regulating matters relating to the conduct of the inquiry itself and to the notification of the Secretary of State's decision. Special provision is made in rule 22 for orders made pursuant to section 290 of the Housing Act 1985.

The procedural system instituted by the rules is explained in more detail in a Circular prepared jointly by the Department of the Environment and the Welsh Office, number 1/90 (Department of the Environment) and 1/90 (Welsh Office). Copies may be purchased through HMSO.