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STATUTORY INSTRUMENTS

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**2007 No. 2008**

**The Rights of Way (Hearings and  
Inquiries Procedure) (England) Rules 2007**

**PART 4**

**INQUIRIES**

**Procedure after inquiry decisions by the Secretary of State**

**23.**—(1) This rule applies where an inquiry has been held for the purposes of a decision by the Secretary of State as respects an order.

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

(3) When making his decision the Secretary of State may disregard any subsequent material.

(4) Paragraph (5) applies where, after the close of the 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, and is, for that reason, minded to disagree with a recommendation made by the inspector, or

(b) takes into consideration any subsequent material which he considers to be relevant to his decision.

(5) Where this paragraph applies, the Secretary of State shall not come to a decision without first—

(a) giving notice to the persons mentioned in paragraph (6)—

(i) that he is minded to disagree with a recommendation made by the inspector, and of the reasons for being so minded, or

(ii) of the subsequent material which he considers to be relevant to his decision; and

(b) affording the persons mentioned in paragraph (6) an opportunity to make written representations to him and to ask for the inquiry to be re-opened.

(6) The persons referred to in paragraph (5) are every person who—

(a) was entitled to appear at the inquiry, or

(b) appeared at the inquiry with the Secretary of State's permission.

(7) Those persons making written representations or requesting that the inquiry be re-opened under paragraph (5) shall ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notice under that paragraph.

(8) The Secretary of State may, if he thinks fit, cause an inquiry to be re-opened.

(9) Where an inquiry is re-opened under paragraph (8)—

- (a) the Secretary of State shall, not less than eight weeks before the date of the re-opened inquiry, send to every person who was entitled to appear at the inquiry, and every person who appeared at the inquiry with the Secretary of State's permission, a written statement of the matters with respect to which further evidence or argument is invited; and
- (b) paragraphs (2) to (4) of rule 16 shall apply as if the references to an inquiry were references to a re-opened inquiry.

**Changes to legislation:**

There are currently no known outstanding effects for the The Rights of Way (Hearings and Inquiries Procedure) (England) Rules 2007, Section 23.