
STATUTORY INSTRUMENTS

2013 No. 1987

The Electricity (Necessary Wayleaves and Felling and Lopping of Trees) (Hearing Procedures) (England and Wales) Rules 2013

PART 3

Oral hearing procedure

Appointment of inspector for oral hearing procedure

8.—(1) Where the oral hearing procedure applies, the Secretary of State must appoint an inspector.

(2) Subject to paragraph (4), an inspector must—

- (a) conduct the oral hearing; and
- (b) submit the inspector's report.

(3) As soon as practicable after the appointment of an inspector, the Secretary of State must give notice to each party of the name of the inspector.

(4) If an inspector ("A") is unable or unwilling to carry out the matters in paragraph (2), the Secretary of State may in respect of the matters which have not been carried out—

- (a) discharge A as an inspector; and
- (b) appoint a replacement inspector.

Notification of oral hearing date

9.—(1) The inspector must determine the date, time and location of the oral hearing and give notice of those matters to the Secretary of State.

(2) As soon as practicable after receiving notice from the inspector under paragraph (1), the Secretary of State must give notice to each party of the date, time and location of the oral hearing.

(3) The notice under paragraph (2) must be given not less than 15 working days before the oral hearing, unless otherwise agreed by the Secretary of State with each party and the inspector.

(4) Where the inspector determines that it is necessary or desirable to vary the date, time or location of an oral hearing, the inspector must give notice of the variation to the Secretary of State.

(5) The notice under paragraph (4) must be given as soon as practicable after the inspector makes the determination.

(6) As soon as practicable after receipt of a notice under paragraph (4), the Secretary of State must give notice of the variation to each party.

Pre-hearing meeting

10.—(1) The inspector may hold a meeting (“a pre-hearing meeting”) in advance of an oral hearing where the inspector considers that it may result in the oral hearing being conducted more efficiently and expeditiously.

(2) Where the inspector decides to hold a pre-hearing meeting, the inspector must—

- (a) draft a timetable for the proceedings at the oral hearing; and
- (b) determine a proposed date by which the statements of evidence under rule 11(1) are to be provided in default of which they may be disregarded.

(3) The inspector may—

- (a) subject to paragraph (4), decide the matters to be dealt with at the pre-hearing meeting; and
- (b) decide to conduct the pre-hearing meeting by—
 - (i) attendance of the parties in person; or
 - (ii) subject to paragraph (5), video or telephone with the parties.

(4) The matters to be dealt with at the pre-hearing meeting must include seeking agreement of the parties to the matters described in paragraph (2).

(5) The inspector may not conduct a pre-hearing meeting by video or telephone with the parties unless the inspector is satisfied that such a form of meeting would not prejudice any of the parties.

(6) Where the inspector decides to hold a pre-hearing meeting, the inspector must give notice to the Secretary of State—

- (a) of the time and date of the pre-hearing meeting;
- (b) whether the pre-hearing meeting is to be attended in person by the parties or to be conducted by video or telephone;
- (c) in the case of a pre-hearing meeting to be attended in person by the parties, the location of the pre-hearing meeting;
- (d) in the case of a pre-hearing meeting to be conducted by video or telephone, the means by which the parties may participate in the pre-hearing meeting.

(7) The pre-hearing meeting must take place at least 30 working days before the oral hearing, but the inspector and the parties may agree to a period of less than 30 working days.

(8) As soon as practicable after receipt of a notice under paragraph (6), the Secretary of State must give notice to each party of the matters contained in that notice.

(9) The inspector may determine the procedure at the pre-hearing meeting.

(10) Where the pre-hearing meeting includes a matter on which agreement is sought and agreement cannot be reached, the decision of the inspector applies in respect of that matter.

(11) Where the inspector considers that a person (“A”) is behaving in a disruptive manner during a pre-hearing meeting, the inspector may—

- (a) in the case of a pre-hearing meeting attended by the parties in person—
 - (i) require A to leave; and
 - (ii) refuse to permit A to return, or permit A to return only on such conditions as the inspector may specify;
- (b) in the case of a pre-hearing meeting conducted by video or telephone with the parties—
 - (i) terminate A’s connection to the pre-hearing meeting; and
 - (ii) refuse to permit A to re-join the pre-hearing meeting, or permit A to re-join only on such conditions as the inspector may specify.

(12) As soon as practicable after the pre-hearing meeting, the inspector must give notice to each party and the Secretary of State of—

- (a) the timetable for the proceedings at the oral hearing; and
- (b) the date by which the statements of evidence under rule 11(1) are to be provided in default of which they may be disregarded.

Statements of evidence

11.—(1) Each party may submit a statement of evidence to the inspector.

(2) The inspector may disregard any statement of evidence received—

- (a) where a pre-hearing meeting has been held, after the date notified under rule 10(12)(b);
- (b) where a pre-hearing meeting has not been held, after the 10th working day before the date of the oral hearing.

(3) Where a party submits a statement of evidence to the inspector, the party must at the same time send a copy of the statement of evidence to each other party and to the Secretary of State.

(4) The applicant's statement of evidence must—

- (a) in the case of an application made under paragraph 6(3) of Schedule 4 to the 1989 Act—
 - (i) describe the location of the proposed or existing electric line by reference to a map; and
 - (ii) state why the applicant considers that it is necessary or expedient for the applicant to install and keep installed (or to keep installed, as the case may be) the electric line on, under or over the relevant land and the reasons why it would be appropriate for the Secretary of State to grant a necessary wayleave; or
- (b) in the case of a reference made under paragraph 9(5) of Schedule 4 to the 1989 Act—

- (i) describe the location of the electric line and the trees to be felled or lopped by reference to a map; and
- (ii) state why the applicant considers that it would be appropriate for the Secretary of State to make an order for the felling or lopping of such trees.

(5) Where the inspector decides to disregard any statement of evidence under paragraph (2), the inspector must give notice to each party and to the Secretary of State that the statement of evidence is to be disregarded.

Procedure at oral hearing

12.—(1) Subject to paragraph (3), the oral hearing must take place in public.

(2) A party may request the inspector to hold the oral hearing in private.

(3) The inspector may agree to a request received under paragraph (2) if the inspector considers that to hold the oral hearing in private would not prejudice any of the parties.

(4) The parties are entitled to appear at an oral hearing and may be represented by counsel, a solicitor or any other person (including any other person entitled to appear).

(5) Subject to paragraph (8), a party may give, or call another person to give, oral evidence, and may cross-examine persons giving evidence.

(6) Unless the inspector otherwise determines, the applicant is entitled to give the first and final oral evidence at the oral hearing.

(7) The inspector may determine the order in which the objectors are to give oral evidence at the oral hearing.

- (8) The inspector may at any stage during the course of an oral hearing refuse to permit—
- (a) the giving or production of evidence; or
 - (b) the cross-examination of any person,

which the inspector considers to be irrelevant or repetitious.

(9) Each party may submit documents to the inspector during the oral hearing in support of that party's oral evidence ("supporting documents").

(10) A party that submits supporting documents under paragraph (9) must provide a copy of those supporting documents to each other party.

(11) The inspector may disregard any supporting documents which the inspector considers to be irrelevant or repetitious or where the party submitting them does not comply with paragraph (10).

(12) Where the inspector considers that a person ("A") is behaving in a disruptive manner during the oral hearing, the inspector may—

- (a) require A to leave the oral hearing; and
- (b) refuse to permit A to return, or permit A to return only on such conditions as the inspector may specify.

(13) Where A is—

- (a) required to leave the oral hearing;
- (b) entitled to give oral evidence under paragraph (5); and
- (c) has not given that evidence before A was required to leave,

A may submit representations to the inspector before the close of the oral hearing.

(14) The inspector may from time to time adjourn an oral hearing and determine the date, time and place of the adjourned oral hearing.

(15) Where an oral hearing is adjourned, the inspector must give the parties reasonable notice of the date, time and place of the adjourned hearing, unless that information is given at the oral hearing before it is adjourned.

(16) The inspector may proceed with the oral hearing in the absence of any party, and in such case the inspector must take into account any oral evidence or statement of evidence provided by that party before the close of the oral hearing in so far as the inspector considers such evidence to be relevant to the matters in issue.

(17) Except as otherwise provided by this rule, the inspector may determine the procedure at the oral hearing.