

2023 No. 795

TRANSPORT AND WORKS, ENGLAND AND WALES

TRANSPORT, ENGLAND AND WALES

CANALS AND INLAND WATERWAYS, ENGLAND AND WALES

TRIBUNALS AND INQUIRIES, ENGLAND

The Transport and Works (Applications, Objections and Inquiries Procedure) (Amendment) (England and Wales) Rules 2023

<i>Made</i> - - - -	<i>12th July 2023</i>
<i>Laid before Parliament</i>	<i>14th July 2023</i>
<i>Coming into force</i> - -	<i>11th August 2023</i>

These Rules are made by—

- (a) the Secretary of State, in exercise of the powers conferred by section 6(2) and (4) of the Transport and Works Act 1992(a), and
- (b) the Lord Chancellor, in exercise of the powers conferred by section 9 of the Tribunals and Inquiries Act 1992(b).

In so far as these Rules relate to Wales, they are made with the agreement of the Welsh Ministers(c).

Citation, commencement, extent and application

1.—(1) These Rules may be cited as the Transport and Works (Applications, Objections and Inquiries Procedure) (Amendment) (England and Wales) Rules 2023 and come into force on 11th August 2023.

(2) These Rules extend to England and Wales.

-
- (a) 1992 c. 42.
 - (b) 1992 c. 53. Section 9 was amended by the Growth and Infrastructure Act 2013 (c. 27), sections. 2(6), 35(1); S.I. 2013/2143, article 2(b). There are other amendments not relevant to these Rules.
 - (c) For the requirement for agreement to the exercise of functions in relation to Wales, see article 5(1) of, and Schedule 2 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and the entry in Schedule 2 relating to the Transport and Works Act 1992. This function has now been transferred to Welsh Ministers by virtue of the Government of Wales Act 2006 (c. 32).

- (3) Rule 2 applies to England.
- (4) Rule 3 applies to England and Wales.
- (5) The provisions in these Rules apply in relation to applications made on or after 11th August 2023.

Amendments to the Transport and Works (Inquiries Procedure) Rules 2004

2.—(1) The Transport and Works (Inquiries Procedure) Rules 2004^(a) are amended as follows.

(2) In rule 2 (interpretation) after paragraph (2) insert—

“(3) The requirements in rules 7(9), 12(5), 16(8), 17(2) and 21 to give any person who so requests an opportunity to inspect and take copies of any document or to provide copies to them, shall also be taken to have been satisfied where that person is notified of—

- (a) the publication of the document on a website;
- (b) the address of the website;
- (c) the place on the website where the document may be accessed and how it may be accessed;
- (d) details of where and when any document may be inspected or viewed in an electronic form;
- (e) details of where and when copies of any document may be obtained; and
- (f) any charge that will be levied for copies made of any document available for inspection or viewing.”

(3) In rule 7(2) (service of statement of case, etc.), for sub-paragraph (b), substitute—

“(b) upon each statutory objector and each person who is required to serve a statement of case under paragraph (3), a notice giving—

(i) the names of all places, within each area in which the proposals contained in the application are to have effect (or as close as reasonably practicable to that area) where, at all reasonable hours until the date of commencement of the inquiry—

(aa) a copy of every document, or

(bb) the relevant part of any document,

on which the applicant intends to refer to or put in evidence may be inspected or viewed in an electronic form free of charge; or

(ii) details of a website where a copy of the application and every document required by these Rules to accompany it are displayed.”

(4) In rule 24 (service of notices)—

(a) for paragraphs (1) and (2), substitute—

“(1) Notices or documents required or authorised to be served or sent under any of the provisions of these Rules may be effected by—

- (a) sending by post;
- (b) subject to paragraphs (2) to (5), sending by electronic transmission; or
- (c) subject to compliance with the requirements in paragraph (6), publishing them on a website maintained by or on behalf of the applicant.

^(a) S.I. 2004/2018.

(2) Where a notice or other document required to be served or sent for the purposes of these Rules is served or sent by electronic transmission, the requirement shall be taken to be fulfilled where the recipient of the notice or other document to be transmitted—

- (a) is the Secretary of State, the Inspector or a body mentioned in rule 13(1) to (4) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(a); or
- (b) has given their consent to the use of electronic transmission, either in writing or by electronic transmission.”;

(b) for paragraph (4), substitute—

“(4) A person may—

- (a) revoke their consent to the use of electronic transmission; or
- (b) in accordance with paragraph (5), request that the use of electronic transmission ceases.”

(5) In paragraph (5), for “is no longer” substitute “is not”.

(6) After paragraph (5), insert—

“(6) The requirements referred to in paragraph (1)(c) are that the person upon whom the notice or other document is being served or sent is notified in writing of—

- (a) the publication of the relevant document on a website;
- (b) the address of the website;
- (c) the place on the website where the document may be accessed and how it may be accessed;
- (d) details of where and when copies of documents may be inspected or viewed in an electronic form;
- (e) details of where and when copies of documents may be obtained; and
- (f) any charge that will be levied for copies made of any document available for inspection or viewing.

(7) In this rule, “served or sent” includes “submitted” or “provided”.”

Amendments to the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

3.—(1) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 are amended as follows.

(2) In rule 10 (documents accompanying application)—

- (a) omit paragraph (1); and
- (b) in paragraph (2), for “4 copies” substitute “a copy”.

(3) In rule 14(5) (publicity for application) for sub-paragraph (e) substitute—

“(e) the names or details of—

- (i) all places, which shall be places within the area to which the proposals in the proposed order relate (or as close as reasonably practicable to that area) where, at all reasonable hours until the expiry date for objections—

(a) S.I. 2006/1466 as amended by S.I. 2011/556, S.I. 2015/627, and S.I. 2017/1070. There are other amendments not relevant to these Rules.

- (aa) the application; and
 - (bb) the documents which are required by these Rules to accompany it,
 - may be inspected or be viewed in an electronic form free of charge; or
 - (ii) a website where a copy of the application and of the documents required by these Rules to accompany it are displayed; and”
- (4) In rule 27 (service of notices or documents)—
- (a) for paragraph (1) substitute—
 - “(1) Notices or documents required or authorised to be served or sent under any of the provisions of these Rules may be effected by—
 - (a) sending by post;
 - (b) subject to paragraphs (2) to (5), sending by electronic transmission; or
 - (c) subject to compliance with the requirements in paragraph (6), publishing them on a website maintained by or on behalf of the applicant.”;
 - (b) in paragraph (2), at the beginning, for “Where a notice” substitute “Subject to paragraph (2A) where a notice”;
 - (c) after paragraph (2), insert—
 - “(2A) No consent is required for the purposes of paragraph (2) in the case of a notice or other document required to be served on or sent to the Secretary of State or a body or person mentioned in rules 13(1) to (4), 17(4) or 25.”;
 - (d) after paragraph (5), insert—
 - “(6) The requirements referred to in paragraph (1)(c) are that the person upon whom the notice or other document is being served or sent is notified in writing of—
 - (a) the publication of the relevant document on a website;
 - (b) the address of the website;
 - (c) the place on the website where the document may be accessed and how it may be accessed;
 - (d) details of where and when copies of documents may be inspected or viewed in an electronic form;
 - (e) details of where and when copies of documents may be obtained; and
 - (f) any charge that will be levied for copies made of any document available for inspection or viewing.
 - (7) In this rule, “served or sent” includes “submitted” or “provided”.”
- (5) In Schedule 7 (proposals for orders under section 7)—
- (a) for paragraph 12(b), substitute—
 - “(b) the names or details of—
 - (i) all places, which shall be places within the area to which the proposals in the proposed order relate (or as close as reasonably practicable to that area) where, at all reasonable hours during the period specified in pursuance of paragraph 11(d), the documents referred to in paragraph 14 may be inspected or be viewed in an electronic form free of charge; or

- (ii) a website where copies of the documents referred to in paragraph 14 are displayed,”;
- (b) for paragraph 26, substitute—

“26. The Secretary of State shall supply a copy of any document referred to in paragraph 14 to any person who requests such a copy, subject to the payment by that person of a reasonable charge for the provision of the copy, and he shall ensure that the information as to how such copies may be obtained is displayed—

- (a) at every place at which copies of those documents are made available for inspection; and
- (b) on any website where copies of those documents are displayed.”

11th July 2023

Signed by authority of the Secretary of State for Transport

Alex Chalk
Lord Chancellor
Ministry of Justice

12th July 2023

Jesse Norman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend, subject to the transitional provisions in rule 4, the Transport and Works (Inquiries Procedure) Rules 2004 (S.I. 2004/2018) (“the 2004 Rules”) and the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (S.I. 2006/1466) (“the 2006 Rules”).

Rule 2 makes amendments to the 2004 Rules and rule 3 to the 2006 Rules. These amendments will enable applications made under the Transport and Works Act 1992 (c. 42) to be submitted and progressed, including through public local inquiries, by documentation in an electronic form.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

© Crown Copyright 2023

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty’s Stationery Office and King’s Printer of Acts of Parliament.

£4.90

<http://www.legislation.gov.uk/id/uksi/2023/795>

ISBN 978-0-34-825000-8



9 780348 250008