
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

**The Transport and Works (Scotland) Act 2007
(Inquiries and Hearings Procedure) Rules 2007**

PART 2

INQUIRIES

Procedure after inquiry

18.—(1) After the close of an inquiry, the reporter shall make a report in writing to the Scottish Ministers, which shall include the reporter's findings of fact, conclusions and recommendations or the reporter's reasons for not making any recommendations.

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

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

(4) When making their decision the Scottish Ministers may disregard any written representations, evidence or any other document received after the close of the inquiry.

(5) If, after the close of an inquiry, the Scottish Ministers—

- (a) differ from the reporter on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the reporter; or
- (b) take into consideration any new evidence or new matter of fact (not being a matter of government policy),

and are for that reason disposed to disagree with a recommendation made by the reporter, they shall not come to a decision which is at variance with that recommendation without first notifying such of the persons specified in rule 12(1) who appear to them to be likely to be affected by that, and who have appeared at the inquiry, of their disagreement and the reasons for it.

(6) The Scottish Ministers shall afford each person to be notified pursuant to paragraph (5) an opportunity either of making written representations to the Scottish Ministers within 3 weeks of the date of the notification, or (if the Scottish Ministers have 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.

(7) The Scottish Ministers may, if they think fit, cause an inquiry to be re opened, and they shall do so if asked by the applicant or a statutory objector in the circumstances and within the period mentioned in paragraph (6); and where an inquiry is re opened (whether by the same or a different reporter)—

- (a) the Scottish Ministers shall send to the persons specified in rule 12(1) who appeared at the inquiry a written statement of the matters in respect to which further evidence is invited; and
- (b) paragraphs (2) to (9) of rule 11 shall apply—
 - (i) as if references to an inquiry were references to a re opened inquiry; and
 - (ii) as if the words “whether or not the revised date is within the applicable period mentioned in paragraph (1)” were omitted from paragraph (4)(a).