
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

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

PART 1

INTRODUCTORY

Citation and commencement

1. These Rules may be cited as the Transport and Works (Scotland) Act 2007 (Inquiries and Hearings Procedure) Rules 2007 and come into force on 28th December 2007.

Interpretation

2.—(1) In these Rules—

“the Act” means the Transport and Works (Scotland) Act 2007;

“applicant” means any person who has submitted an application to the Scottish Ministers in accordance with rules made under section 4 of the Act or, in the case where the Scottish Ministers have made a proposal for an order by virtue of section 6 of the Act, the Scottish Ministers;

“application” means an application made under section 4 of the Act for an order or the publication of a notice by the Scottish Ministers of a proposal to make an order by virtue of section 6 of the Act;

“assessor” means a person appointed by the Scottish Ministers to sit with a reporter at an inquiry or re opened inquiry, or a hearing or re opened hearing (as the case may require), to advise the reporter on such matters arising as the Scottish Ministers may specify;

“by local advertisement” means, in relation to the publication of a notice, by publication of the notice in at least one newspaper circulating in the locality, or each of the localities, in which the land to which an application relates is situated;

“document” includes a photograph, map or plan;

“hearing” means any hearing to which these Rules apply by virtue of rule 3(2);

“hearing statement” means a written statement containing full particulars of the case which a person proposes to put forward at a hearing (including, where that person is the applicant, the reasons for submitting the application), together with a list of any documents which that person intends to refer to or put in evidence;

“inquiry” means a public local inquiry to which these Rules apply by virtue of rule 3(1);

“national development” has the same meaning as in section 13(2) of the Act;

“official case” means a written statement by any part of the Scottish Administration setting out full particulars of its evidence in regard to an application;

“official representation” means a written objection or representations made by any part of the Scottish Administration in regard to an application;

“order” means an order under section 1 of the Act;

“precognition” means a written statement of the evidence which it is proposed that a person will give to 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 more than one such meeting is held references to the conclusion of the pre inquiry meeting are references to the conclusion of the final meeting;

“re opened hearing” means a hearing which is re opened in accordance with rules 30 or 32 (as the case may require);

“re opened inquiry” means an inquiry which is re opened in accordance with rules 18 or 20 (as the case may require);

“reporter” means a person appointed by the Scottish Ministers to hold an inquiry or a re opened inquiry or a hearing or a re opened hearing (as the case may require);

“starting date” means—

- (a) in rules 6, 7 and 11, the date of the Scottish Ministers' written notice under rule 5 that an inquiry is to be held; and
- (b) in rules 22, 23 and 25, the date of the Scottish Ministers' written notice under rule 21 that a hearing is to be held;

“statement of case” means a written statement containing full particulars of the case which a person proposes to put forward at an inquiry (including, where that person is the applicant, the reasons for submitting the application), together with a list of any documents which that person intends to refer to or put in evidence;

“statement of common ground” means a written statement prepared jointly by the applicant and any other party who wishes to participate in the inquiry, which contains factual information agreed between those persons about any proposal which is the subject of the application in question;

“statement of matters” means a statement by the Scottish Ministers of the matters about which they particularly wish to be informed for the purposes of their consideration of the order in question;

“statutory body” means a body, not being part of the Scottish Administration, which has been given by a public general Act of Parliament, or a public general Act of the Scottish Parliament, functions relevant to the subject matter of the application; and

“statutory objector” means a person within section 9(4) of the Act who has made an objection in regard to an application which, in accordance with section 9(3) of the Act, must be referred to an inquiry or dealt with at a hearing.

(2) Where the Scottish Ministers are the applicant these Rules shall be construed so as not to require that—

- (a) the Scottish Ministers shall serve a document upon themselves; or
- (b) they shall consult or agree with themselves upon any matter; or
- (c) any other person shall serve a document upon the Scottish Ministers more than once.

Application of Rules

3.—(1) Part 2 of these Rules shall apply in relation to any inquiry which is caused to be held pursuant to section 9 of the Act by the Scottish Ministers.

(2) Part 3 of these Rules shall apply in relation to any hearing which is caused to be held under section 9(2) of the Act.

Allowing further time

4. The Scottish Ministers may at any time in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Rules (including any step which they are required or enabled to take themselves), and references in these Rules to a day by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.