

## 1976 No. 721

## TRIBUNALS AND INQUIRIES

**The Highways (Inquiries Procedure) Rules 1976**

<i>Made - - - -</i>	<i>7th May 1976</i>
<i>Laid before Parliament</i>	<i>18th May 1976</i>
<i>Coming into Operation</i>	<i>10th June 1976</i>

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The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971(a) and after consultation with the Council on Tribunals, hereby makes the following Rules:—

## PART I

## GENERAL

*Citation and commencement*

**1.**—(1) These Rules may be cited as the Highways (Inquiries Procedure) Rules 1976.

(2) These Rules shall come into operation on 10th June 1976 but shall not apply to any local inquiry the date, time and place for the holding of which has been announced by the Secretary of State before that date.

*Application of Rules*

**2.**—(1) Subject to paragraph (2) of this rule, these Rules shall apply—

(a) to local inquiries caused by the Secretary of State to be held under paragraph 5 of Schedule 1 to the Highways Act 1959(b) in connection with—

- (i) orders proposed to be made by him under section 7, 9, 13 or 20 of the Highways Act 1959 or under section 10 of the Highways Act 1971(c),
- (ii) orders made by a local highway authority under section 13 of the Highways Act 1959 or under section 1 or 10 of the Highways Act 1971 and submitted to the Secretary of State for confirmation, and

(b) to local inquiries caused by the Secretary of State to be held under paragraph 9 of Schedule 1 to the Highways Act 1959 in connection with—

- (i) schemes proposed to be made by him under section 11 of the Highways Act 1959,
- (ii) schemes made by a local highway authority under the said section 11 or under section 3 of the Highways (Miscellaneous Provisions) Act 1961(d) and submitted to the Secretary of State for confirmation.

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(a) 1971 c. 62.  
(c) 1971 c. 41.

(b) 1959 c. 25.  
(d) 1961 c. 63.

(2) Part II of these Rules applies to local inquiries in connection with orders or schemes proposed to be made by the Secretary of State, Part III of these Rules applies to local inquiries in connection with orders or schemes made by a local highway authority and submitted to the Secretary of State for confirmation, and Parts I and IV of these Rules apply to all local inquiries referred to in paragraph (1) of this rule.

*Interpretation*

3.—(1) In these Rules, unless the context otherwise requires—

“appointed person” means the person appointed by the Secretary of State to hold the inquiry;

“highway works” means any works for the construction, improvement or alteration of a highway, or for the provision of means of access to premises or the diversion of a navigable watercourse in connection with the construction, improvement or alteration of a highway, and “the highway works”, in relation to an order or scheme, means the highway works authorised by that order or scheme;

“improvement”, in relation to a highway, has the same meaning as in the Highways Act 1959;

“inquiry” means a local inquiry to which these Rules apply;

“local authority” means a county council, a district council, the Greater London Council, a London Borough Council, the Common Council of the City of London, a parish council, a community council, a parish meeting or any joint board or joint committee whose constituent authorities are any two or more of the foregoing authorities;

“local highway authority” has the same meaning as in the Highways Act 1959;

“the order or scheme” means, in relation to an inquiry, the order or scheme in connection with which the inquiry is, or is to be, held or, when an inquiry is, or is to be, held in connection with more than one order or scheme, all the orders and schemes;

“the promoting authority”—

(a) in relation to an order or scheme proposed to be made by the Secretary of State, means the Secretary of State,

(b) in relation to an order or scheme made by a local highway authority and submitted to the Secretary of State for confirmation, means that local highway authority,

(c) in relation to a scheme under section 11 of the Highways Act 1959 or under section 3 of the Highways (Miscellaneous Provisions) Act 1961 made by two or more local highway authorities and submitted to the Secretary of State for confirmation, means such one or more of those authorities as may, for the purpose of any particular provision of these Rules, be agreed between the authorities themselves or, in default of such agreement, be determined by the Secretary of State or the appointed person;

“site” means the site of any of the highway works authorised by the order or scheme or the site of any highway to which the order or scheme relates;

“statutory objector” means any person who is mentioned in the following table, who has duly objected to the order or scheme in accordance with the provisions of Schedule 1 to the Highways Act 1959 and whose objection has

not been withdrawn or disregarded under section 14(4), (6) or (8) of the Highways Act 1971—

## TABLE

1. Any owner (within the meaning of section 295 of the Highways Act 1959), lessee or occupier of land which is likely to be required for the execution of any of the highway works.

2. Any person who is likely to be entitled to claim compensation under Part I of the Land Compensation Act 1973(a) in respect of the use of any of the highway works.

3. Any local authority in whose area any of the highway works will be situated or in whose area any highway to which the order or scheme relates is situated.

4. In the case of an order or scheme providing for the construction of a bridge over or tunnel under navigable waters, or for the diversion of a navigable watercourse, any navigation authority or water authority having jurisdiction over the waters affected or the area comprising those waters or that watercourse.

5. In the case of an order which authorises the stopping up of any private means of access to premises, the owner (within the meaning of section 16 of the Highways Act 1959) or the occupier of those premises.

6. In the case of an order which authorises the stopping up or diversion of a highway, any person having apparatus under, in, upon, over, along or across the highway.

(2) Any reference in these Rules to works authorised by an order or scheme is a reference to the works which the order or scheme would authorise if it were made by the Secretary of State in the form in which it was prepared in draft by him, or if it were confirmed by the Secretary of State in the form in which it was made by the local highway authority.

(3) For the purpose of these Rules an order under section 7 of the Highways Act 1959 which provides that a new highway which the Secretary of State proposes to construct on a route described in the order shall become a trunk road shall be regarded as authorising the construction of that highway by him on that route, and an order under the said section 7 which provides that an existing highway shall become a trunk road shall be regarded as authorising such improvement of that highway as the Secretary of State proposes to carry out under Part V of the Highways Act 1959 if that order is made.

(4) Any reference in these Rules to any enactment is a reference to that enactment as amended, extended or applied by or under any other enactment.

(5) The Interpretation Act 1889(b) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

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(a) 1973 c. 26.

(b) 1889 c. 63.

## PART II

RULES APPLICABLE TO INQUIRIES IN CONNECTION WITH ORDERS OR SCHEMES  
PROPOSED TO BE MADE BY THE SECRETARY OF STATE*Notice of inquiry*

4.—(1) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Secretary of State, who shall give not less than 42 days' notice in writing of the date, time and place to every statutory objector at the address furnished to the Secretary of State:

Provided that—

- (i) with the consent in writing of the statutory objectors the Secretary of State may give such lesser period of notice as may be agreed with them and in that event he may specify a date for service of the statement referred to in rule 5(1) later than the date prescribed in that paragraph;
- (ii) where it becomes necessary or advisable to vary the time or place fixed for the inquiry, the Secretary of State shall give such notice of the variation as may appear to him to be reasonable in the circumstances.

(2) Not later than 14 days before the date of the inquiry, the Secretary of State shall post a notice of the inquiry in a conspicuous place near to the site or, where more than one site is involved, to each site and also in one or more places where public notices are usually posted in the locality or localities concerned, and shall also publish a notice of the inquiry in one or more newspapers circulating in the locality in which the site or sites are situated or, if more than one locality is concerned, in one or more newspapers circulating in each such locality.

*Statement to be served before inquiry*

5.—(1) As soon as may be after receiving the objections of statutory objectors and in any event (except where the Secretary of State specifies a later date under proviso (i) to rule 4(1)) not less than 28 days before the date of the inquiry, the Secretary of State shall, unless he has already done so, serve on each statutory objector a written statement of his reasons for proposing to make the order or scheme in the terms of the draft prepared by him.

(2) Where another government department has expressed in writing to the Secretary of State a view in support of the draft order or scheme and the Secretary of State proposes to rely on such expression of view in his submission at the inquiry, he shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of his statement to the government department concerned.

(3) Where the Secretary of State intends to refer to or put in evidence at the inquiry documents (including maps and plans), his statement shall be accompanied by a list of such documents, together with a notice stating the times and place at which the documents may be inspected by any statutory objector; and the Secretary of State shall afford every statutory objector a reasonable opportunity to inspect and, where practicable, to take copies of the documents.

(4) The Secretary of State shall afford any other person interested a reasonable opportunity to inspect and, where practicable, to take copies of his statement and the other documents referred to in the last foregoing paragraph.

*Representation of Secretary of State at inquiry*

6.—(1) The Secretary of State may be represented at the inquiry by counsel or solicitor or by an officer of his department or other person authorised by the Secretary of State to represent him.

(2) The Secretary of State shall make a representative available at the inquiry to give evidence in elucidation of the statement referred to in rule 5, and such representative shall be subject to cross-examination to the same extent as other witnesses, so, however, that the appointed person shall disallow any question which in his opinion is directed to the merits of government policy.

*Representation of other government departments at inquiry*

7.—(1) Where another government department has expressed in writing to the Secretary of State a view in support of the draft order or scheme and the Secretary of State has included that view in his statement, a representative of the department concerned shall be made available to attend the inquiry.

(2) Such representative shall at the inquiry state the reasons for the view expressed by his department and shall give evidence and be subject to cross-examination to the same extent as other witnesses, so, however, that the appointed person shall disallow any question which in his opinion is directed to the merits of government policy.

*Other appearances at inquiry*

8.—(1) Every statutory objector shall be entitled to appear at the inquiry and any other person may appear at the discretion of the appointed person.

(2) Any person appearing at the inquiry in pursuance of this rule may appear in person or be represented by counsel, solicitor or any other person.

(3) Where there are two or more persons having a similar interest in the matter under inquiry the appointed person may allow one or more persons to appear on behalf of some or all persons so interested.

**PART III****RULES APPLICABLE TO INQUIRIES IN CONNECTION WITH ORDERS OR SCHEMES  
MADE BY LOCAL HIGHWAY AUTHORITIES***Notice of inquiry*

9.—(1) The Secretary of State shall as soon as may be notify the promoting authority of the substance of each objection received by him from a statutory objector and, so far as practicable, shall also notify the promoting authority of the substance of other objections.

(2) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Secretary of State who shall give or cause to be given not less than 42 days' notice in writing of such date, time and place to every statutory objector at the address furnished to the Secretary of State, and to the promoting authority:

Provided that—

- (i) with the consent in writing of the statutory objectors and of the promoting authority the Secretary of State may give such lesser period of notice as shall be agreed with the statutory objectors and the promoting authority, and in that event he may specify a date for service of the statement referred to in rule 10(1) later than the date prescribed in that paragraph;
  - (ii) where it becomes necessary or advisable to vary the time or place fixed for the inquiry, the Secretary of State shall give such notice of the variation as may appear to him to be reasonable in the circumstances.
- (3) The promoting authority shall—
- (a) unless the Secretary of State otherwise directs, not later than 14 days before the date of the inquiry, post a notice of the inquiry in a conspicuous place near to the site or, where more than one site is involved, to each site and also in one or more places where public notices are usually posted in the locality or localities concerned;
  - (b) if the Secretary of State so directs, publish in one or more newspapers circulating in the locality in which the site or sites are situated or, if more than one locality is concerned, in one or more newspapers circulating in each of those localities, such notices of the inquiry as he may specify.

*Statement to be served before inquiry*

**10.**—(1) As soon as may be after receiving notification of the substance of the objections of statutory objectors and in any event (except where the Secretary of State specifies a later date under proviso (i) to rule 9(2)) not later than 28 days before the date of the inquiry, the promoting authority shall, unless it has already done so—

- (a) serve on each statutory objector a written statement of its reasons for making the scheme or order, and
  - (b) supply a copy of the statement to the Secretary of State.
- (2) Where a government department has expressed in writing to the promoting authority a view in support of the order or scheme and the promoting authority proposes to rely on such expression of view in its submissions at the inquiry, it shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of that statement to the government department concerned.
- (3) Where the promoting authority intends to refer to or put in evidence at the inquiry documents (including maps and plans), the authority's statement shall be accompanied by a list of such documents, together with a notice stating the times and place at which the documents may be inspected by any statutory objector; and the promoting authority shall afford any statutory objector a reasonable opportunity to inspect, and, where practicable, take copies of the documents.
- (4) The promoting authority shall afford any other person interested a reasonable opportunity to inspect and, where practicable, to take copies of the authority's statement and the other documents referred to in the last foregoing paragraph.

(5) The promoting authority shall make a representative available at the inquiry to give evidence in elucidation of the statement referred to in paragraph (1) of this rule and such representative shall be subject to cross-examination to the same extent as other witnesses.

*Representation of government departments at inquiry*

**11.**—(1) Where a government department has expressed in writing to the promoting authority a view in support of the order or scheme and the promoting authority has set out such view in the statement referred to in rule 10(1), a representative of the government department concerned shall be made available to attend the inquiry.

(2) Such representative shall at the inquiry state the reasons for the view expressed by his department and shall give evidence and be subject to cross-examination to the same extent as other witnesses, so, however, that the appointed person shall disallow any question which in his opinion is directed to the merits of government policy.

*Other appearances at inquiry*

**12.**—(1) The promoting authority and any statutory objectors shall be entitled to appear at the inquiry, and any other person may appear at the discretion of the appointed person.

(2) The promoting authority may appear by any officer appointed for the purpose by the promoting authority or by counsel or solicitor and any other person may appear on his own behalf or be represented by counsel, solicitor or any other person.

(3) Where there are two or more persons having a similar interest in the matter under inquiry the appointed person may allow one or more persons to appear on behalf of some or all persons so interested.

## PART IV

### RULES APPLICABLE TO ALL INQUIRIES

*Procedure at inquiry*

**13.**—(1) Except as otherwise provided in these Rules, the procedure at the inquiry shall be such as the appointed person shall in his discretion determine.

(2) Unless in any particular case the appointed person with the consent of the promoting authority otherwise determines, the promoting authority shall begin and shall have the right of final reply; and the other persons entitled or permitted to appear shall be heard in such order as the appointed person may determine.

(3) The promoting authority and the statutory objectors shall be entitled to call evidence and cross-examine persons giving evidence but any other persons appearing at the inquiry may do so only to the extent permitted by the appointed person.



(4) The appointed person shall not require or permit the giving or production of any evidence, whether written or oral, which would be contrary to the public interest but, save as aforesaid and without prejudice to rules 6(2), 7(2) and 11(2), any evidence may be admitted at the discretion of the appointed person, who may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry and that facilities be afforded him to take or obtain copies thereof.

(5) The appointed person may allow the promoting authority to alter or add to the reasons contained in the statement served under rule 5(1) or 10(1), or any list of documents which accompanied such statement, so far as may be necessary for the purpose of determining the questions in issue between the parties, but shall (if necessary by adjourning the inquiry) give every statutory objector an adequate opportunity to consider any such alterations or additions and may make in his report a recommendation as to the payment of any additional costs occasioned by any such adjournment.

(6) The appointed person shall be entitled (subject to disclosure thereof at the inquiry) to take into account any written representations or statements received by him before the inquiry from any person who, for whatever reason, does not attend the inquiry, in so far as such representations or statements appear to the appointed person to be proper and relevant to the matters in issue.

(7) The appointed person may proceed with the inquiry notwithstanding that any of the statutory objectors does not appear.

(8) The appointed person may from time to time adjourn the inquiry and, if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice shall be required.

#### *Site inspections*

**14.—**(1) The appointed person may make an unaccompanied inspection of the site or sites before or during the inquiry, without giving notice of his intention to any person entitled to appear at the inquiry.

(2) The appointed person may, and shall if so requested by the promoting authority or any statutory objector before or during the inquiry, inspect the site or sites involved after the close of the inquiry and shall, in all cases where he intends to make such an inspection, announce during the inquiry the date and time at which he proposes to do so.

(3) The promoting authority and the statutory objectors shall be entitled to accompany the appointed person on any inspection after the close of the inquiry but the appointed person shall not be bound to defer his inspection if any person entitled to accompany him is not present at the time appointed.

(4) In a case where the objection of a statutory objector relates to a part only of a site or to one or more, but not all, of the sites involved, his right to request a site inspection and to accompany the appointed person shall apply only to that part or to that site or those sites.

#### *Procedure after inquiry*

**15.—**(1) The appointed person shall after the close of the inquiry make a

report in writing to the Secretary of State, which shall include the appointed person's findings of fact, his conclusions and his recommendations, if any, or his reasons for not making any recommendations.

(2) Where the Secretary of State—

- (a) differs from the appointed person on a finding of fact, or
- (b) after the close of the inquiry takes into consideration any new evidence (including expert opinion on a matter of fact) or any new issue of fact (not being a matter of government policy) which was not raised at the inquiry,

and by reason thereof is disposed to disagree with a recommendation made by the appointed person, he shall not come to a decision which is at variance with any such recommendation without first notifying—

- (i) all statutory objectors who appeared at the inquiry, and
- (ii) in a case where the promoting authority is a local highway authority, that authority,

of his disagreement, and the reasons for it, and affording to them an opportunity of making representations in writing within 21 days or (if the Secretary of State has taken into consideration any new evidence or any new issue of fact not being a matter of government policy) of asking within 21 days for the reopening of the inquiry.

(3) The Secretary of State may in any case if he thinks fit cause the inquiry to be reopened, and shall cause it to be reopened if asked to do so in accordance with the last foregoing paragraph; and if the inquiry is reopened rule 4(1) and (2) or 9(2) and (3), as the case may be, shall apply as they applied to the original inquiry but with a substitution in rule 4(1) or 9(2) of "28" for "42".

#### *Notification of decision*

16.—(1) The Secretary of State shall notify his decision, and his reasons therefor, in writing to the promoting authority (in a case where that authority is a local highway authority), to the statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision; and, where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the appointed person's conclusions and of his recommendations or his reasons for not making recommendations.

(2) If any person entitled to be notified of the Secretary of State's decision under the last foregoing paragraph has not received a copy of the appointed person's report, he shall be supplied with a copy thereof on written application made to the Secretary of State within one month from the date on which he is notified of the decision or the date of the first publication of notice of the making or confirmation of the order or scheme, whichever is the later.

(3) For the purposes of this rule "report" does not include documents, photographs or plans appended to the report but any person entitled to be supplied with a copy of the report under paragraph (2) of this rule may apply to the Secretary of State in writing within six weeks of the notification to him of the decision or the supply to him of the report, whichever is the later, for an

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opportunity of inspecting such documents, photographs and plans, and the Secretary of State shall afford him an opportunity accordingly.

*Service of notices by post*

17. Notices or documents required or authorised to be served or sent under the provisions of these Rules may be sent by post.

Dated 7th May 1976.

*Elwyn-Jones, C.*

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EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules prescribe the procedure to be followed at local inquiries held under paragraph 5 or 9 of Schedule 1 to the Highways Act 1959 in connection with—

- (i) orders or schemes proposed to be made by the Secretary of State, or
- (ii) orders or schemes made by local highway authorities and submitted to the Secretary of State for confirmation,

which relate to the construction of trunk or special roads, or to side roads and other works associated with the construction or improvement of trunk, special or classified roads (including the construction of road bridges over, or road tunnels under, navigable watercourses).

Parts I and IV of the Rules apply to all such inquiries. Part II applies only to inquiries connected with orders or schemes proposed to be made by the Secretary of State and Part III applies only to inquiries connected with orders or schemes made by local highway authorities.

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