
STATUTORY INSTRUMENTS

1995 No. 1239

TRIBUNALS AND INQUIRIES

The Pipe-lines (Inquiries Procedure) Rules 1995

<i>Made</i>	- - - -	<i>5th May 1995</i>
<i>Laid before Parliament</i>		<i>9th May 1995</i>
<i>Coming into force</i>	- -	<i>1st June 1995</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 9(1), (2) and (3) of the Tribunals and Inquiries Act 1992⁽¹⁾, and after consultation with the Council on Tribunals, hereby makes the following Rules:—

Citation and commencement

1. These rules may be cited as the Pipe-lines (Inquiries Procedure) Rules 1995 and shall come into force on 1st June 1995.

Interpretation

- 2.—(1) In these Rules, unless the context otherwise requires,
- “the Act” means the Pipe-lines Act 1962⁽²⁾;
 - “application” means an application for the grant of an authorisation or an order and “applicant” means the person who makes the application;
 - “assessor” means a person appointed by the Secretary of State to sit with an inspector at an inquiry or a re-opened inquiry to advise the inspector on such matters as the Secretary of State may specify;
 - “authorisation” means a pipe-line construction authorisation for which an application has been made to the Secretary of State under section 1 of the Act or a pipe-line diversion authorisation for which an application has been made to the Secretary of State under section 3 of the Act;
 - “document” includes a photograph, map or plan;
 - “inquiry” means any inquiry to which these Rules apply;
 - “inspector” means a person appointed by the Secretary of State to hold an inquiry or a re-opened inquiry;

(1) 1992 c. 53.
(2) 1962 c. 58.

“order” means a compulsory purchase order under section 11 of the Act or a compulsory rights order under section 12 of the Act for which an application has been made to the Secretary of State;

“outline statement” means a written statement of the principal submissions which a person proposes to put forward at an inquiry;

“person entitled to appear at an inquiry” means a person described in rule 10 and cognate expressions shall be construed accordingly;

“pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that it is conducted efficiently and expeditiously, and where two or more such meetings are held references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;

“relevant date” means the date of the Secretary of State’s written notice to the applicant, the relevant planning authority and statutory objectors of his intention to cause an inquiry to be held and “relevant notice” means that notice;

“relevant planning authority” means a local planning authority within the meaning of the Town and Country Planning Act 1990(3);

“statement of case” means a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry and a list of any documents which that person intends to refer to or put in evidence;

“statutory objector” means, where the Secretary of State has caused an inquiry to be held—

- (a) under paragraph 4(1) of Schedule 1 to the Act, any person who has duly made an objection to the authorisation in accordance with the said Schedule and whose objection has not been withdrawn; or
- (b) under paragraph 4(1) of Schedule 2 to the Act, any owner, lessee or occupier (except a tenant for a month or any period less than a month) of any land proposed to be comprised in the order who has duly made an objection to the application in accordance with the said Schedule, and whose objection has not been withdrawn or disregarded under paragraph 4(3) of the said Schedule.

(2) In these Rules, unless the context otherwise requires—

- (a) any reference to a numbered section or Schedule is a reference to that section of, or that Schedule to, the Act; and
- (b) any reference in a rule to a paragraph is a reference to a paragraph of that rule.

Application of the Rules

3.—(1) These rules apply in relation to any inquiry caused by the Secretary of State to be held in England or Wales under the provisions of paragraphs 4 and 6A(4) of Schedule 1 to the Act for the purpose of an application, or under the provisions of paragraph 4 of Schedule 2 to the Act for the purpose of an Order.

(2) The provisions of subsections (1) and (3) of section 47 of the Act, which apply the provisions of subsections (2) to (5) of section 250 of the Local Government Act 1972(5), apply to these rules.

(3) 1990 c. 8.

(4) Paragraph 6A was inserted by section 25 of the Petroleum Act 1987 c. 12.

(5) 1972 c. 70.

Procedure before inquiry

4.—(1) The Secretary of State shall, as soon as possible, notify the applicant of the substance of each objection received by him from a statutory objector and, so far as possible, of the substance of other objections.

(2) The Secretary of State may cause a pre-inquiry meeting to be held if it appears to him desirable and where he does so the following provisions shall apply.

(3) The Secretary of State shall serve with the relevant notice a notification of his intention to cause a pre-inquiry meeting to be held and a statement of the matters about which he particularly wishes to be informed for the purposes of his consideration of the application in question; and where another Minister of the Crown or a government department has expressed in writing to the Secretary of State a view that the application should not be granted either wholly or in part, or should be granted only subject to conditions, the Secretary of State shall set this out in his statement and shall supply a copy of the statement to the Minister or government department concerned.

(4) In respect of each locality through which the proposed pipe-line is to pass, the applicant shall cause to be published in one or more newspapers circulating in that locality, a notice of the Secretary of State's intention to cause a pre-inquiry meeting to be held and of the statement served in accordance with paragraph (3).

(5) The notice published pursuant to paragraph (4) shall refer to and include the text of any statement served in accordance with paragraph (3).

(6) The applicant and any statutory objector shall, not later than 8 weeks after the relevant date, serve an outline statement on each other and on the Secretary of State.

(7) The Secretary of State may in writing require any person who has notified him of an intention or a wish to appear at an inquiry to serve, within 4 weeks of being so required, an outline statement on the Secretary of State, on any statutory objector and on the applicant.

(8) The pre-inquiry meeting shall be held not later than 16 weeks after the relevant date.

(9) The Secretary of State shall give not less than 3 weeks' written notice of the pre-inquiry meeting to any statutory objector, the applicant, any person known at the date of the notice to be a person entitled to appear at the inquiry and any other person whose presence at the pre-inquiry meeting seems to him to be desirable; and he may require the applicant to take, in relation to notification of the pre-inquiry meeting, one or more steps which he may under rule 9 require him to take in relation to notification of the inquiry.

(10) The inspector shall preside at the pre-inquiry meeting and shall determine the matters to be discussed and the procedure to be followed, and he may require any person present at the meeting who, in his opinion, is behaving in a disruptive manner to leave it, and he may refuse to permit that person to return or to attend any further pre-inquiry meeting, or may permit him to return or to attend only on such conditions as he may specify.

Inspector's power to hold pre-inquiry meetings

5.—(1) An inspector may hold a pre-inquiry meeting where he considers it desirable (whether or not one was held pursuant to rule 4(2)), and shall arrange for not less than 3 weeks' written notice of any such meeting to be given to the applicant, any statutory objector, any person known at the date of the notice to be a person entitled to appear at the inquiry and any other person whose presence at the meeting appears to him to be desirable.

(2) Rule 4(10) shall apply to a pre-inquiry meeting held in accordance with this rule.

Inquiry time-table

6. Where a pre-inquiry meeting is held, an inspector shall (so far as is reasonably practicable) and, in any other case may, arrange a time-table for the proceedings at, or at any part of, an inquiry and may at any time vary the time-table.

Service of statement of case, etc.

7.—(1) Subject to paragraphs (4) and (7), each of—

- (a) the applicant;
- (b) any person who, having notified the Secretary of State of his intention or wish to appear at the inquiry, has been required in writing by the Secretary of State to comply with the requirements of this paragraph; and
- (c) any statutory objector,

shall serve a statement of case on each of the others and on the Secretary of State.

(2) A statement of case required to be served by the applicant and any statutory objector shall be served not later than—

- (a) 6 weeks after the relevant date, or
- (b) in any case where the Secretary of State or the inspector causes a pre-inquiry meeting to be held pursuant to rule 4(2) or rule 5(1), 4 weeks after the conclusion of that meeting.

(3) Any other statement of case shall be served not later than 4 weeks after the date of the Secretary of State's notice requiring it to be served.

(4) The statement of case mentioned in paragraph (1) or, as the case may be, paragraph (3), shall be served no later than the day which is 4 weeks before the date fixed for the holding of the inquiry, where that day falls within whichever of the periods mentioned in either of those paragraphs is applicable to the case.

(5) The Secretary of State shall inform any person from whom he requires a statement of case in accordance with paragraph (1)(b) of the name and address of every person on whom the statement of case is required to be served.

(6) The Secretary of State or the inspector may require any person who has served a statement of case in accordance with this rule to provide each of those on whom a statement of case has been served, the Secretary of State and the inspector with such further information about the matters contained in the statement as he may specify.

(7) Any further information served pursuant to paragraph (6), shall be served not later than 4 weeks after the date of the Secretary of State's notice requiring it to be served.

(8) Any person serving a statement of case shall serve with it a copy of any document, or the relevant part of any document, referred to in it.

(9) Where the Secretary of State considers it expedient, having regard to the number of statutory objectors and the length of a statement of case, he may authorise any person required to serve a statement of case under paragraph (1)(b) to serve it only on the applicant and himself; and where the Secretary of State so authorises he shall make arrangements for notice to be given to the other parties referred to in paragraph (1), stating the times and places at which they may examine the statement of case and, where practicable, take copies of it.

Notification of appointment of assessor

8. Where the Secretary of State appoints an assessor to sit at an inquiry, he shall notify every person entitled to appear at the inquiry of the name of the assessor and of the matters on which he is to advise the inspector.

Date and notification of inquiry

9.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be not later than—

- (a) 22 weeks after the relevant date; or
- (b) in a case where the Secretary of State or the inspector causes a pre-inquiry meeting to be held pursuant to rule 4(2) or rule 5(1), 8 weeks after the conclusion of that meeting.

(2) Where the Secretary of State considers it impracticable to fix a date in accordance with paragraph (1) the date fixed shall be the earliest date after the end of the period mentioned in that paragraph which he considers to be practicable.

(3) Unless the Secretary of State agrees a lesser period of notice with the applicant and statutory objectors, he shall give to every person entitled to appear at the inquiry not less than 4 weeks' written notice of the date, time and place fixed by him for the holding of an inquiry.

(4) The Secretary of State may vary the date fixed for the holding of an inquiry, whether or not the date so varied is within the period mentioned in paragraph (1), and paragraph (3) shall apply to a date so varied as it applied to the date originally fixed.

(5) The Secretary of State may also vary the time or place for the holding of an inquiry and shall give such notice of any such variation as appears to him to be reasonable.

(6) The Secretary of State may require the applicant to take one or more of the following steps—

- (a) to cause to be published not less than 14 days before the date fixed for holding the inquiry a notice of the inquiry in one or more newspapers circulating in each of the localities through which the proposed pipe-line is to run;
- (b) to serve within such period as he may specify a notice of the inquiry on such persons or classes of persons as he may specify; and
- (c) within such period as he may specify, to post a notice of the inquiry in conspicuous places near to the route of the proposed pipe-line.

(7) Any notice of the inquiry published, served or posted pursuant to paragraph (6) shall specify the date and time of the inquiry and the full address of where it is to be held, shall clearly identify the route of the pipe-line and shall specify the powers enabling the Secretary of State to determine the application.

Appearances at inquiry

10.—(1) The persons entitled to appear at an inquiry are—

- (a) the applicant;
- (b) any statutory objector;
- (c) the relevant planning authority;
- (d) any of the following bodies if the route of the proposed pipe-line runs through land situated in their area and they are not the relevant planning authority—
 - (i) a county or district council (including the council of the Isles of Scilly);
 - (ii) a National Park Committee within the meaning of paragraph 5 of Schedule 17 to the Local Government Act 1972⁽⁶⁾;
 - (iii) a joint planning board constituted under section 2(1) of the Town and Country Planning Act 1990⁽⁷⁾; or a joint planning board or special planning board reconstituted under Part I of Schedule 17 to the Local Government Act 1972;

⁽⁶⁾ 1972 c. 70.

⁽⁷⁾ 1990 c. 8.

- (iv) an urban development corporation established under section 135 of the Local Government, Planning and Land Act 1980(8);
 - (e) where land along the route of the proposed pipe-line is an area designated as a new town, the development corporation for the new town or the Commission for the New Towns as its successor;
 - (f) any other person who has served a statement of case in accordance with rule 7(1)(b) or who has served an outline statement in accordance with rule 4(7).
- (2) Nothing in paragraph (1) shall prevent the inspector from permitting any other person to appear at an inquiry, and such permission shall not unreasonably be withheld.
- (3) Any person entitled or permitted to appear may do so on his own behalf or be represented by counsel, solicitor or any other person.
- (4) An inspector may allow one or more persons to appear for the benefit of some or all of any persons having a similar interest in the matter under inquiry.

Representatives of government departments at inquiry

- 11.**—(1) Where a government department has expressed a view such as is mentioned in rule 4(3) and the Secretary of State has included its terms in a statement served in accordance with that rule or rule 7(5), a representative of the government department concerned shall be made available to attend the inquiry.
- (2) A person attending an inquiry as a representative in pursuance of this rule shall state the reasons for the expression of the view in question and shall give evidence and be subject to cross-examination to the same extent as any other witness.
- (3) Nothing in paragraph (2) shall require a representative of a government department to answer any question which in the opinion of the inspector is directed to the merits of government policy.

Proofs of evidence

- 12.**—(1) Where a person entitled to appear at an inquiry proposes to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence, he shall send a copy of the proof to the inspector together with, subject to paragraph (2), a written summary.
- (2) No written summary shall be required where the proof of evidence proposed to be read contains no more than 1,500 words.
- (3) The proof and any summary shall be sent to the inspector not later than—
- (a) 3 weeks before the date fixed for the holding of the inquiry; or
 - (b) where a time-table has been arranged pursuant to rule 6 which specifies a date by which the proof and any summary shall be sent to the inspector, that date.
- (4) Where the applicant or any statutory objector sends a copy of a proof to the inspector in accordance with paragraph (1), with or without a summary, he shall at the same time send a copy of that proof and any summary to the other parties set out in rule 7(1) and rule 10(1); and where any other party listed in rule 7(1) and rule 10(1) so sends a copy of such documents he shall at the same time send a copy to the applicant and any (or any other) statutory objector.
- (5) Where a written summary is provided in accordance with paragraph (1), only that summary shall be read at the inquiry, unless the inspector permits or requires otherwise.

(6) Any person required by this rule to send a copy of a proof to any other person shall send with it a copy of the whole, or the relevant part, of any documents referred to in it, unless a copy of the document or part of the document in question is already available for inspection pursuant to rule 7(9).

(7) The applicant and the relevant planning authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any document sent to or by them in accordance with this rule.

Procedure at inquiry

13.—(1) Except as otherwise provided in these rules, the inspector shall determine the procedure at the inquiry.

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

(3) A person entitled to appear at an inquiry shall be entitled to call evidence and the applicant, the relevant planning authority and any statutory objector shall be entitled to cross-examine any person giving evidence but, subject to paragraphs (4) and (5), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the inspector's discretion.

(4) The inspector may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he so refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any written evidence or other matter in writing before the close of the inquiry.

(5) Where a person gives evidence at an inquiry by reading a summary of his evidence in accordance with rule 12(5), the proof of evidence referred to in rule 12(1) shall, unless the person required to supply the summary notifies the inspector that he now wishes to rely on the contents of that summary only, be treated as tendered in evidence, and the person whose evidence the proof contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(6) The inspector may direct that facilities shall be afforded to any person appearing at the inquiry to take or obtain copies of documentary evidence open to public inspection.

(7) The inspector may require any person appearing or present at the inquiry who, in his opinion, is behaving in a disruptive manner to leave it and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify; but any such person may submit to him any written evidence or other matter in writing before the close of the inquiry.

(8) The inspector may allow any person to alter or add to a statement of case served under rule 7 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(9) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(10) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided he discloses it at the inquiry.

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

Site inspections

14.—(1) The inspector may make an unaccompanied inspection of the route of the proposed pipe-line before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.

(2) The inspector may, during an inquiry or after its close, inspect the route of the proposed pipeline in the presence of the applicant, the relevant planning authority and, subject to paragraph (3), any statutory objector; and he shall make such an inspection if he is so requested by the applicant or the relevant planning authority before or during an inquiry.

(3) Where the inspector inspects the proposed route of the pipe-line after the close of an inquiry, a statutory objector shall only be entitled to accompany him on that inspection if the objector appeared at the inquiry.

(4) In all cases where the inspector intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

(5) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

15.—(1) After the close of an inquiry, the inspector shall make a report in writing to the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendation.

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

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

(4) If, after the close of the inquiry, the Secretary of State—

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

and is by reason thereof disposed to disagree with a recommendation made by the inspector, he shall not come to a decision which is at variance with that recommendation without first notifying the persons entitled to appear at the inquiry who appeared at it of his disagreement and the reasons for it; and affording them an opportunity of making written representations to him within 3 weeks of the date of notification, or (if the Secretary of State has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) an opportunity of asking within that period for the re-opening of the inquiry.

(5) The Secretary of State may, as he thinks fit, cause an inquiry to be re-opened to afford an opportunity for persons to be heard on such matters relating to an application as he may specify, and he shall do so if asked to do so by the applicant, the relevant planning authority, any statutory objector or any other person mentioned in paragraph (1) of rule 10 pursuant to paragraph (4) and in the circumstances and within the period mentioned in that paragraph; and where an inquiry is re-opened (whether by the same or a different inspector)—

- (a) the Secretary of State shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters specified pursuant to paragraph (5); and
- (b) rules 9(3) to 9(7) shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

16.—(1) The Secretary of State shall notify his decision on an application and his reasons for it in writing to all persons entitled to appear at the inquiry who did appear at it and any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application made to the Secretary of State within 4 weeks from the date of the decision.

(3) In this rule "report" includes any assessor's report appended to the inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing, within 6 weeks of the date of the Secretary of State's decision, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

Procedure following quashing of decision

17.—(1) Where a decision of the Secretary of State on an application in respect of which an inquiry has been held is quashed in proceedings before any court, the Secretary of State—

- (a) shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters which appear to him to be relevant to his further consideration of the application; and
- (b) shall afford to those persons an opportunity of making, within 3 weeks of the date of such written statement, written representations to him in respect of such matters or of asking for the re-opening of the inquiry; and
- (c) may, as he thinks fit, cause the inquiry to be re-opened (whether by the same or a different inspector), and, if he does so, rules 9(3) to 9(7) shall apply as if the references to an inquiry were references to a re-opened inquiry.

Allowing further time

18. The Secretary of State may at any time in any particular case allow further time for the taking of any step which is required or enabled to be done by virtue of these Rules, 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.

Service of notices

19. Notices or documents required or authorised to be served or sent under any of the provisions of these rules may be sent by post.

Revocation and savings

20.—(1) Subject to paragraph (2), the Pipe-lines (Inquiries Procedure) Rules 1967 (9) ("the 1967 Rules") are hereby revoked.

(2) The 1967 Rules shall continue to apply both to any inquiry which commenced before the date on which these Rules come into force and to any inquiry re-opened under rule 9(4) of the 1967 Rules, and for the purposes of this rule an inquiry shall be taken to have commenced on the day

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

on which the Secretary of State issued the relevant notice under the 1967 Rules of his intention to cause the inquiry to be held.

5th May 1995

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe the new procedure to be followed at public inquiries in connection with applications in England and Wales under paragraphs 4(1) and 6A of Part I of Schedule 1 to the Pipe-lines Act 1962 and under paragraph 4(1) of Part I of Schedule 2 to the Pipe-lines Act 1962.

The Rules up-date the inquiry procedure previously governed by the Pipe-lines (Inquiries Procedure) Rules 1967 (“the 1967 rules”) by making provision for pre-inquiry meetings at the request of either the Secretary of State or the inspector; the appointment by the Secretary of State of a person to sit with an inspector at an inquiry and to advise the inspector on specified matters; and the establishment of the full range of persons, including the applicant and statutory objectors who may appear at the inquiry. In contrast to the 1967 rules, the Rules introduce procedures for the serving of statements of case and proofs of evidence which include a timetable under which the statements and proofs of evidence must be served. The Rules also contain provision for summaries of proofs of evidence to be used. The new Rules also include the procedure to be followed where a decision by the Secretary of State has been quashed in proceedings before any Court.

The new procedure is similar to that provided by the Electricity Generating Station and Overhead Lines (Inquiries Procedure) Rules 1990 (“the 1990 rules”) and will therefore facilitate inquiries under section 62 of the Electricity Act 1990 (which are governed by the 1990 rules) being held jointly with those under the Pipe-lines Act 1962 in circumstances where the Secretary of State considers that the matters are so far cognate that they should be heard together.

The 1967 rules are accordingly revoked but continue to apply to any inquiry which commenced before these Rules came into force.