
STATUTORY INSTRUMENTS

2007 No. 2008

**The Rights of Way (Hearings and
Inquiries Procedure) (England) Rules 2007**

PART 4

INQUIRIES

Procedure where the Secretary of State causes a pre-inquiry meeting to be held

15.—(1) The Secretary of State shall cause a pre-inquiry meeting to be held if such a meeting appears to him to be necessary.

(2) The Secretary of State shall give not less than 14 days' notice of a pre-inquiry meeting to every person to whom notice of the inquiry was given under rule 4(4).

(3) The inspector—

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

(4) Where a pre-inquiry meeting is held pursuant to paragraph (1), the Secretary of State may cause a further pre-inquiry meeting to be held and he shall arrange for such notice to be given of that further meeting as appears to him necessary.

(5) Paragraphs (3) and (6) shall apply to any pre-inquiry meeting held pursuant to paragraph (4).

(6) Where a pre-inquiry meeting is held, the inspector—

- (a) shall arrange a timetable for proceedings at the inquiry where it appears likely that the inquiry will last for eight days or more;
- (b) may, in respect of inquiries which appear likely to last for a shorter period, arrange a timetable for the proceedings.

(7) In this rule, “pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done to ensure that the inquiry is conducted efficiently and expeditiously.

Date and notification of inquiry

16.—(1) The date fixed by the Secretary of State for an inquiry shall be—

- (a) not later than twenty-six weeks after the start date; or
- (b) where he considers that a date within such twenty-six-week period would not be practicable, the earliest date which he considers to be practicable after the expiry of that twenty-six-week period.

(2) The Secretary of State may at any time change the date, time or place fixed for the inquiry (whether or not, in the case of a change of date, the new date is within the period mentioned in paragraph (1)(a)) and shall give such notice of the change as appears to him to be reasonable to every person mentioned in rule 4(4).

- (3) Not less than four weeks before the date fixed for the inquiry, the authority—
- (a) shall cause a notice of the inquiry to be displayed in a prominent position at each end of so much of any way or proposed way as is affected by the order and in such other places in the locality as the authority may consider appropriate;
 - (b) shall publish a notice of the inquiry in one or more newspapers circulating in the locality in which the land to which the order relates is situated; and
 - (c) may publish notice of the inquiry by any additional means they consider appropriate.
- (4) Every notice referred to in paragraph (3) shall contain—
- (a) the date, time and place of the inquiry;
 - (b) a brief description of—
 - (i) the land to which the order that is the subject of the inquiry relates; and
 - (ii) the effect of the order; and
 - (c) details of where and when copies of the order and documents relating to the inquiry may be inspected and copied.

Submission of statements of case for the inquiry

17.—(1) The authority shall ensure that, within eight weeks of the start date, the Secretary of State has received their statement of case.

(2) As soon as practicable after the receipt of the statement of case mentioned in paragraph (1), the Secretary of State shall send a copy of that statement (excluding copies of any supporting documents) to the applicant (if any), each relevant person and any other person who has submitted or subsequently submits a statement of case under paragraph (5).

- (3) The applicant shall ensure that, within 14 weeks of the start date, the Secretary of State has—
- (a) received his statement of case, or
 - (b) received notice that he intends to rely on the authority’s statement of case as his own.

(4) The Secretary of State shall, as soon as practicable after receiving the applicant’s statement of case or notice under paragraph (3)—

- (a) send a copy of that statement or notice to the authority; and
- (b) send a copy of that statement (excluding copies of any supporting documents) to each relevant person and to any other person who has submitted or subsequently submits a statement of case under paragraph (5).

(5) Every relevant person and every other person who wishes to give evidence at the inquiry shall ensure that, within 14 weeks of the start date, the Secretary of State has received his statement of case.

- (6) The Secretary of State shall, as soon as practicable—
- (a) send a copy of each statement which he receives under paragraph (5) to the authority;
 - (b) send a copy of each such statement (excluding copies of any supporting documents) to the applicant (if any); and
 - (c) send a copy of each such statement (excluding copies of any supporting documents) to every other person who has submitted or subsequently submits a statement of case under paragraph (5).

Provision of further information

18.—(1) The Secretary of State may require such further information as he may specify from any person in respect of his statement of case mentioned in rule 17.

(2) Any information required under paragraph (1) shall be provided in writing within such period as the Secretary of State may reasonably require.

(3) The Secretary of State shall, as soon as practicable after receipt of the further information required under paragraph (1), send a copy to the authority and to every other person who has submitted or subsequently submits a statement of case or notice under rule 17.

Appearances at the inquiry

19.—(1) The persons entitled to appear at the inquiry are—

- (a) the authority;
- (b) the applicant;
- (c) every relevant person; and
- (d) every other person who has submitted a statement of case in respect of the inquiry as mentioned in rule 17(5).

(2) The Secretary of State may permit any other person to appear at the inquiry, and such permission shall not be unreasonably withheld.

(3) Any person entitled or permitted to appear may appear in person or be represented by any other person.

Proofs of evidence

20.—(1) Any person entitled or permitted to appear at the inquiry under rule 19 who proposes to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence shall send the proof of evidence in question (together with any summary required under paragraph (4)) to the Secretary of State.

(2) Where a proof of evidence (together with any summary required under paragraph (4))(the “relevant documents”) is sent to the Secretary of State under paragraph (1), the Secretary of State shall as soon as practicable send the relevant documents to the persons specified in paragraph (3).

(3) The persons referred to in paragraph (2) are—

- (a) in the case of relevant documents received from the authority, the applicant, each relevant person and any other person who has submitted or subsequently submits a statement of case;
- (b) in the case of relevant documents received from the applicant, the authority, each relevant person and any other person who has submitted or subsequently submits a statement of case;
- (c) in the case of relevant documents received from a relevant person, the authority, the applicant, each other relevant person and any other person who has submitted or subsequently submits a statement of case;
- (d) in the case of relevant documents received from any person other than the authority, the applicant or a relevant person, the authority, the applicant, each relevant person and any other person who has submitted or subsequently submits a statement of case.

(4) A written summary shall be required where the proof of evidence in question exceeds one thousand five hundred words.

(5) The person sending the relevant documents shall ensure that they are received by the Secretary of State no later than four weeks before the date fixed for the holding of the inquiry.

(6) Where a written summary is provided in accordance with paragraphs (1) and (4), only that summary shall be read at the inquiry, unless the inspector permits or requires otherwise.

Procedure at the inquiry

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

(2) At the start of the inquiry the inspector shall identify—

- (a) what are in his opinion the main issues to be considered at the inquiry; and
- (b) any matters on which he requires further explanation from any person appearing at the inquiry.

(3) Paragraph (2) shall not preclude the addition in the course of the inquiry of other issues for consideration or preclude any person entitled or permitted to appear at the inquiry from referring to other issues which he considers to be relevant to the inquiry.

(4) Unless in a particular case the inspector otherwise determines, the authority shall begin and any other persons appearing at the inquiry shall be heard in such order as the inspector shall determine.

(5) Subject to paragraph (7), a person appearing at an inquiry may give, or call another person to give, oral evidence, and may present, or call another person to present, any matter.

(6) Subject to paragraph (7), any person appearing at the inquiry may cross-examine any person giving evidence orally or in writing or presenting any matter at the inquiry.

(7) The inspector may at any stage in the proceedings refuse to permit—

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

which he considers to be irrelevant or repetitious.

(8) Where under paragraph (7) the inspector refuses to permit the giving or production of evidence or the presentation of any matter, the person wishing to give or produce evidence or to present any matter, or to call any other person to give or produce evidence or to present any matter, may submit to the inspector any evidence or other matter in writing before the close of the inquiry.

(9) Where a person gives evidence at an inquiry by reading a summary of his proof of evidence, the proof of evidence shall be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector that he wishes to rely on the contents of that summary alone.

(10) The inspector may—

- (a) require any person present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return or permit him to return only on such conditions as he may specify.

(11) Any person mentioned in paragraph (10) may submit to the inspector any evidence or other matter in writing before the close of the inquiry.

(12) The inspector may, at the inquiry, allow any person to alter or add to his statement of case received by the Secretary of State under rule 17 or his proof of evidence or summary received by the Secretary of State under rule 20 so far as may be necessary for the purposes of the inquiry.

(13) Where the inspector has allowed an alteration or addition under paragraph (12), he shall (if necessary by adjourning the inquiry) give the persons mentioned in paragraph (14) an adequate opportunity of considering the alteration or addition.

(14) The persons referred to in paragraph (13) are—

(a) in the case of an alteration or addition to a statement of case—

(i) every other person appearing at the inquiry;

(ii) every other person present at the inquiry who was entitled to receive a copy of the statement of case in question under rule 17; and

(iii) such other persons as the inspector considers appropriate; and

(b) in the case of an alteration or addition to a proof of evidence or summary—

(i) every other person appearing at the inquiry;

(ii) every other person present at the inquiry who was entitled to receive a copy of the relevant documents in question under rule 20; and

(iii) such other persons as he considers appropriate.

(15) The inspector may—

(a) proceed with the inquiry in the absence of any person entitled or permitted to appear at it;

(b) take into account any written representations, evidence or any other document received by him from any person before the inquiry opens or during the inquiry, provided he discloses it at the inquiry; and

(c) from time to time adjourn the inquiry.

Site inspections and adjourning the inquiry to the land

22.—(1) The inspector may make an unaccompanied inspection of the land to which the order relates before or during the inquiry without giving notice of his intention to the persons entitled or permitted to appear at the inquiry.

(2) During the inquiry or after its close, the inspector—

(a) may inspect the land to which the order relates in the company of the authority and any person entitled or permitted to appear at the inquiry; and

(b) shall make such an inspection if so requested before or during the inquiry by the authority or any person entitled or permitted to appear at the inquiry.

(3) The inspector shall not be required to make more than one inspection under paragraph (2)(b).

(4) In all cases where the inspector intends to make an accompanied inspection under 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 in the event that any person entitled or permitted to appear at the inquiry is not present at the appointed time.

(6) Where it appears to the inspector that one or more matters would be more satisfactorily resolved by adjourning the inquiry to the land to which the order relates, he may adjourn the inquiry to that land and may conclude the inquiry there, provided he is satisfied that—

(a) the inquiry would proceed satisfactorily and that no person entitled or permitted to appear at the inquiry would be placed at a disadvantage; and

(b) no person entitled or permitted to appear at the inquiry has raised any reasonable objection to the inquiry being continued on that land.

(7) Nothing in this rule—

- (a) entitles or requires the inspector (or those accompanying him, where applicable) to access land in order to make an inspection or to continue an inquiry where such access would be unlawful; or
 - (b) requires the inspector to access land to make an inspection where making such an inspection would not, in the inspector's opinion, be expedient for reasons of safety.
- (8) For the purposes of paragraph (7)(a), access is lawful on any occasion if the inspector (and those accompanying him, where applicable) may access the land on that occasion without committing an offence or trespassing on the land.

Procedure after inquiry decisions by the Secretary of State

23.—(1) This rule applies where an inquiry has been held for the purposes of a decision by the Secretary of State as respects an order.

(2) After the close of the inquiry the inspector shall make a report in writing to the Secretary of State which shall include his conclusions and either his recommendations or his reasons for not making any recommendations.

(3) When making his decision the Secretary of State may disregard any subsequent material.

(4) Paragraph (5) applies where, 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, and is, for that reason, minded to disagree with a recommendation made by the inspector, or
- (b) takes into consideration any subsequent material which he considers to be relevant to his decision.

(5) Where this paragraph applies, the Secretary of State shall not come to a decision without first—

- (a) giving notice to the persons mentioned in paragraph (6)—
 - (i) that he is minded to disagree with a recommendation made by the inspector, and of the reasons for being so minded, or
 - (ii) of the subsequent material which he considers to be relevant to his decision; and
- (b) affording the persons mentioned in paragraph (6) an opportunity to make written representations to him and to ask for the inquiry to be re-opened.

(6) The persons referred to in paragraph (5) are every person who—

- (a) was entitled to appear at the inquiry, or
- (b) appeared at the inquiry with the Secretary of State's permission.

(7) Those persons making written representations or requesting that the inquiry be re-opened under paragraph (5) shall ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notice under that paragraph.

(8) The Secretary of State may, if he thinks fit, cause an inquiry to be re-opened.

(9) Where an inquiry is re-opened under paragraph (8)—

- (a) the Secretary of State shall, not less than eight weeks before the date of the re-opened inquiry, send to every person who was entitled to appear at the inquiry, and every person who appeared at the inquiry with the Secretary of State's permission, a written statement of the matters with respect to which further evidence or argument is invited; and
- (b) paragraphs (2) to (4) of rule 16 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Procedure after inquiry transferred decisions

24.—(1) This rule applies where an inquiry has been held for the purposes of a transferred decision.

(2) When making his decision the inspector may disregard any subsequent material.

(3) If, after the close of the inquiry, the inspector takes into consideration any subsequent material which he considers to be relevant to his decision, he shall not come to a decision without first—

- (a) giving notice of the subsequent material which he considers to be relevant to his decision to every person who was entitled to appear at the inquiry and every person who appeared at the inquiry with the Secretary of State's permission; and
- (b) affording such persons an opportunity to make written representations to him and to ask for the inquiry to be re-opened.

(4) Any person wishing to avail himself of the opportunity mentioned in paragraph (3)(b) shall ensure that such written representations or requests to re-open the inquiry are received by the Secretary of State within three weeks of the date of the notification mentioned in paragraph (3)(a).

(5) The inspector may, if he thinks fit, cause an inquiry to be re-opened.

(6) Where an inquiry is re-opened under paragraph (5)—

- (a) the inspector shall send to every person who was entitled to appear at the inquiry, and every person who appeared at the inquiry with the Secretary of State's permission, a written statement of the matters with respect to which further evidence or argument is invited; and
- (b) paragraphs (2) to (4) of rule 16 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision decisions by the Secretary of State

25.—(1) This rule applies where an inquiry has been held under these Rules for the purposes of a decision by the Secretary of State.

(2) The Secretary of State shall, as soon as practicable, give notice of his decision, and his reasons for it, to—

- (a) every person who was entitled to appear at the inquiry under rule 19(1);
- (b) every person who appeared at the inquiry with the Secretary of State's permission; and
- (c) every other person who was notified by the Secretary of State in accordance with rule 4(4) (c) to (f).

(3) Where a copy of the inspector's report is not sent with the notice of the decision given under paragraph (2), that notice shall include a statement of the inspector's conclusions and of any recommendations made by him.

(4) If a person entitled to be notified of the Secretary of State's decision has not received a copy of the report mentioned in paragraph (3), he shall be supplied with a copy of it on written application to the Secretary of State.

(5) As soon as practicable after giving notice of his decision under paragraph (2), the Secretary of State shall make a copy of that notice available for inspection for a period of three months on a website maintained by him.

(6) In this rule, "report" does not include any documents appended to the inspector's report, but any person who has received a copy of the report may apply in writing to the Secretary of State for an opportunity to inspect any such documents and the Secretary of State shall afford him that opportunity.

Notification of decision transferred decisions

26.—(1) This rule applies where an inquiry has been held under these Rules for the purposes of a transferred decision.

(2) The inspector shall, as soon as practicable, give notice of his decision, and his reasons for it, to—

- (a) every person who was entitled to appear at the inquiry under rule 19(1);
- (b) every person who appeared at the inquiry with the Secretary of State’s permission; and
- (c) every other person who was notified by the Secretary of State in accordance with rule 4(4) (c) to (f).

(3) Any person entitled to be notified of the inspector’s decision under paragraph (2) may apply in writing to the Secretary of State for an opportunity of inspecting any documents referred to in that notification and the Secretary of State shall afford him that opportunity.

(4) The Secretary of State shall ensure that, as soon as practicable after the notice has been given under paragraph (2), a copy of that notice is made available for inspection for a period of three months on a website maintained by him.