

SCHEDULE

Agricultural Land Tribunals Rules

PART 4

Hearings and decisions

Hearings to be in public

21.—(1) All hearings by the Tribunal must be in public unless the Tribunal is satisfied that, by reason of disclosure of confidential matters it is just and reasonable to hold the hearing or part of a hearing in private.

(2) Subject to any direction by the Tribunal hearing the proceedings, any Chairman of any Agricultural Land Tribunal or any member of a panel for the Tribunal, notwithstanding that he is not part of the Tribunal for the purpose of the hearing, and the Secretary is entitled to attend a hearing whether or not it is in private.

(3) The Tribunal, with the consent of the parties, may permit any other person to attend the hearing of an application which is held in private.

Failure of parties to attend

22.—(1) If a party fails to attend or be represented at a hearing, the Tribunal may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence—

- (a) hear and decide the application or question in the party's absence; or
- (b) adjourn the hearing,

and may give such directions as it thinks fit.

(2) Before deciding to dispose of any application or question in the absence of a party, the Tribunal must consider the application and any reply, as appropriate, and any written representations or evidence supplied.

(3) Where an applicant has failed to attend or be represented at a hearing of which he was duly notified, and the Tribunal has disposed of the application, no fresh application may be made by the applicant to the Tribunal for relief arising out of the same facts without the prior permission of the Tribunal.

(4) Nothing in this rule prevents the applicant making an application for a review of the Tribunal's decision under rule 32.

Procedure at hearing

23.—(1) At the beginning of any hearing the Chairman may explain the manner and order of proceeding, having regard to any applicable burden and standard of proof and rules of evidence.

(2) The Tribunal—

- (a) may conduct the hearing in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; and
- (b) must, so far as it appears to it appropriate, seek to avoid formality and inflexibility in its proceedings.

(3) The parties may appear at the hearing and may be represented.

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(4) The parties may give evidence, call witnesses, question any witnesses and address the Tribunal both on the evidence and generally on the subject matter of the application.

(5) The Tribunal may at any stage of the proceedings direct the personal attendance of any maker of a witness statement or deponent of an affidavit, or any expert whose report has been filed.

(6) The Tribunal may receive evidence of any fact which seems to the Tribunal to be relevant even if the evidence would be inadmissible in law but, subject to rule 27, must not refuse to admit any evidence presented in due time which is admissible in law and is relevant and necessary and has not been improperly obtained.

Evidence of witnesses

24.—(1) Except where the Chairman otherwise directs, any party who wishes to rely on the evidence of any witness must deliver a statement of that witness to the Secretary and must deliver copies to every party at least 10 days before the date of the hearing.

(2) The witness statement must state at the end “I believe that the facts stated in this witness statement are true” and be signed by the witness.

Entry on land or premises

25.—(1) For the purpose of enabling the Tribunal to understand the issues in any proceedings before it, the Chairman may give a direction requiring the occupier of any land or premises which are relevant to the proceedings to permit the Tribunal (and any party, party’s representative, expert witness, official expert and any of the Tribunal’s officers or members of its staff as the Chairman considers necessary) to enter and inspect the land or premises.

(2) The direction must specify a date and time for the entry and inspection at least 24 hours (or 7 days in drainage cases) after the date when a copy of the direction is delivered to the occupier or the occupier is notified of any change in the date specified.

(3) This direction can be given in a notice of hearing.

(4) If notice of the Tribunal’s intention to enter and inspect any land or premises is given orally at a hearing, the Tribunal may waive the 24 hours’ minimum notice requirement under paragraph (2).

(5) The Secretary must deliver a copy of the direction to the parties and must notify them of any change in the date or time specified.

Inspection of land or premises by official expert

26.—(1) The Chairman may direct any person who owns or occupies any land or premises which are relevant to the proceedings to permit the official expert to enter and inspect the land or premises for the purpose for which he was appointed.

(2) Every such direction must, unless the occupier was present when the direction was made, contain a statement informing the occupier that he may apply to the Chairman to vary or set aside the direction.

(3) The occupier of the land or premises and the other parties must be given at least seven days notice of any inspection, unless the occupier and the other parties agree in writing to a shorter period of notice.

(4) That inspection must take place during the hours of daylight and must take place on a business day unless there is good reason or the occupier and parties consent for the inspection to take place on another day.

(5) The Secretary must deliver a copy of the report of the official expert and any written statement made by or on behalf of the Secretary of State or the Welsh Ministers to each of the parties and inform them that they may make written comments (with copies for all other parties and the official

expert) as to the contents of the report within one month (or such other period as the Chairman directs) of receiving the report.

(6) Rules 27, 28 and 29 apply to the report and evidence of the official expert.

(7) In this rule, “business day” means any day except Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(1).

Expert evidence

27.—(1) No expert may give oral evidence unless he has provided a written report which has been previously delivered to all parties or the Chairman otherwise directs.

(2) No party may rely on the evidence of more than two experts without the Chairman’s permission.

(3) An application for permission must state—

- (a) the reasons why the party wishes to rely on further expert evidence; and
- (b) where practicable, the name and address of the experts on whose evidence the party wishes to rely.

(4) If permission is granted it must be in relation only to the experts named and the reasons identified under paragraph (3).

Expert’s overriding duty to the Tribunal

28.—(1) It is the duty of an expert to help the Tribunal on the matters within his expertise.

(2) This duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

Form and content of expert’s report

29.—(1) Expert evidence must be given in a written report unless the Chairman directs otherwise.

(2) Every expert must attend the oral hearing for cross-examination unless the Chairman directs otherwise.

(3) An expert’s report must be addressed to the Tribunal and not to the party from whom the expert has received instructions.

(4) The expert’s report must contain—

- (a) details of the expert’s qualifications;
- (b) a statement of the substance of all material instructions whether written or oral, on the basis of which the report was written;
- (c) details of any literature or any other material which the expert has relied on in making the report;
- (d) where there is a range of opinion on the matter dealt with in the report—
 - (i) a summary of the range of opinion; and
 - (ii) the reasons for the expert’s own opinion;
- (e) a summary of the conclusions reached; and
- (f) a statement that the expert understands his duty to the Tribunal and has complied with that duty.

(1) 1971 c.80.

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(5) The expert report must be restricted to that which is reasonably required to resolve the proceedings.

Decision of Tribunal

30.—(1) A decision of the Tribunal may be taken by a majority.

(2) The Chairman may, at or following the hearing, give the parties an informal, non-binding indication of the decision that the Tribunal is minded to make.

(3) At any time before a decision document is signed by the Chairman, the Tribunal may reconsider of its own accord and if necessary may reconvene the hearing or request further submissions and may decide to make a different decision than previously informally indicated.

(4) Whether there has been a hearing or not, every decision must be recorded in a document (the “decision document”) which, except in the case of a decision by consent, must also contain a statement of the reasons for the decision and must be signed by the Chairman and dated.

(5) The Secretary must deliver a certified copy of the decision document to each party.

(6) Where any document refers to any evidence that has been heard in private, the material relating to that evidence must be omitted from the decision document as the Tribunal may direct.

(7) Every copy of a document or entry delivered to the parties under this rule must be accompanied by a notification of the provisions in these Rules relating to review of the Tribunal’s decision and reference to the High Court on a question of law.

Duty to adjourn part of hearing where time limits have not expired

31.—(1) Where on the date appointed for the hearing the time allowed for a response has not expired, or has not started to run, the Tribunal must not proceed to hear the application except with the consent of the party whose response has not been received.

(2) Where consent is required but is not given, the Tribunal must adjourn the proceedings and the Chairman must give such directions as he considers appropriate for the further hearing of the proceedings.

Review of Tribunal’s decision

32.—(1) If, on the application of a party or on its own initiative, a Tribunal is satisfied that—

- (a) its decision contains a clerical mistake or error arising from an accidental slip or omission or contains an ambiguity that should be clarified or removed;
- (b) it should make an additional order or direction which relates to a matter which was presented to the Tribunal but was not dealt with in its decision or which is consequential to its decision;
- (c) a party, who was entitled to be heard at a hearing but failed to be present or represented, had a good reason for failing to be present or represented; or
- (d) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then,

the Tribunal may set aside or vary the relevant decision.

(2) An application under paragraph (1) must—

- (a) be made in writing stating the reasons in full; and
- (b) unless made at the hearing, be delivered to the Secretary within 28 days of a certified copy of the decision document being delivered to the person making the application.

(3) When the Tribunal proposes to review its decision on its own initiative, the Secretary must deliver notice of that proposal to the parties.

(4) The parties must have an opportunity to be heard on any application or proposal for review under this rule and the review must be decided by the Tribunal which decided the case or, where it is not practicable for it to be heard by that Tribunal, by a differently constituted Tribunal.

(5) If having reviewed the decision, the decision is set aside, the Tribunal must substitute the decision it thinks fit or order a rehearing before either the same or a differently constituted Tribunal.

(6) On the setting aside or variation of the Tribunal's decision, the Secretary must immediately make such correction as may be necessary in the register and deliver a copy of the entry so corrected and the decision document to each of the parties.

(7) Rule 30 applies to the Tribunal's decision on the review.