STATUTORY INSTRUMENTS

1962 No. 1424

TRIBUNALS AND INQUIRIES

The Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962

Made - - - -	*9th July* 1962
Laid before Parliament	13*th July* 1962
Coming into Operation	1*st October* 1962

I, David, Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 7A of the Tribunals and Inquiries Act 1958(a) and of all other powers enabling me in this behalf and after consultation with the Council on Tribunals, hereby make the following Rules:—

Citation and Commencement

1.—(1) These Rules may be cited as the Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962.

(2) These Rules shall come into operation on the 1st day of October 1962 but shall not apply to any compulsory purchase order made before that date.

Application of the Rules

2. These Rules shall apply to public local inquiries, and (to the extent stated in Rule 12 hereof) to hearings before a person appointed by the confirming authority, held under the provisions of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946(b) for the purpose of inquiring into the authorisation of any compulsory purchase of land by a local authority.

Interpretation

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

"the Act of 1946" means the Acquisition of Land (Authorisation Procedure) Act 1946;

"the Minister" means the authority referred to as the confirming authority in Schedule 1 to the Act of 1946;

"acquiring authority" means a local authority as hereafter defined who have, under the provisions of Schedule 1 to the Act of 1946, made and submitted to the Minister for confirmation an order authorising the compulsory purchase of land;

"order" means an order so made and submitted;

"appointed person" means the person appointed by the Minister to hold a public local inquiry to which these Rules apply; and "inquiry" means such an inquiry;

"the land" means the land to which the order relates, or, where a right over land is proposed to be acquired, the land over which such right would be exercised;

(a) 6 & 7 Eliz. 2. c. 66. (b) 9 & 10 Geo. 6. c. 49.

"local authority" has the meaning assigned to that expression in subsection (1) of section 8 of the Act of 1946;

"statutory objector" means an owner, lessee or occupier of the land or any part thereof who, being entitled to be served with notice of the making of the order, has duly objected to the making thereof in accordance with the provisions of Schedule 1 to the Act of 1946 and whose objection has not been withdrawn, or disregarded under sub-paragraph (4) of paragraph 4 of the said Schedule or subsection (1) of section 45 of the Town and Country Planning Act 1947(a).

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

Procedure before Inquiry

4.—(1) The Minister shall as soon as may be notify the acquiring authority of the substance of each objection received by him from a statutory objector and, so far as practicable, shall also notify the acquiring 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 Minister who shall give or cause to be given not less than forty-two days' notice in writing of such date, time and place to every statutory objector at the address furnished to the Minister and to the acquiring authority:

Provided that—

(i) with the consent in writing of the statutory objectors and of the acquiring authority the Minister may give such lesser period of notice as shall be agreed with the statutory objectors and the acquiring authority and in that event he may specify a date for service of the statement referred to in paragraph (4) of this Rule 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 Minister shall give such notice of the variation as may appear to him to be reasonable in the circumstances.

(3) The acquiring authority shall—

(*a*) unless the Minister otherwise directs, not later than fourteen days before the date of the inquiry post a notice of the inquiry in a conspicuous place near to the land and also in one or more places where public notices are usually posted in the locality;

(*b*) if the Minister so directs, publish in one or more newspapers circulating in the locality in which the land is situate such notices of the inquiry as he may specify.

(4) As soon as may be after receiving notification of the substance of the objections of statutory objectors and in any event (except where the Minister specifies a later date under proviso (i) to paragraph (2) of this Rule) not later than twenty-eight days before the date of the inquiry, the acquiring authority shall, unless they have already done so, serve on each statutory objector a written statement of their reasons for making the order and shall supply a copy of the statement to the Minister.

(5) Where a government department has expressed in writing to the acquiring authority a view in support of the order and the acquiring authority propose to rely on such expression of view in their submissions

(a) 10 & 11 Geo. 6. c. 51. (b) 52 & 53 Vict. c. 63.

at the inquiry, they shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of their statement to the government department concerned.

(6) Where the acquiring authority intend 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 acquiring authority shall afford every statutory objector a reasonable opportunity to inspect and, where practicable, take copies of the documents.

(7) The acquiring 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.

Appearances at Inquiry

5.—(1) The acquiring 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 acquiring authority may appear by their clerk or by any other officer appointed for the purpose by the acquiring 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 for the benefit of some or all persons so interested.

Government Departments at Inquiry

6.—(1) Where a government department has expressed in writing to the acquiring authority a view in support of the order and the acquiring authority have set out such view in the statement referred to in paragraph (4) of Rule 4, any statutory objector may, not later than fourteen days before the date of the inquiry, apply in writing to the Minister for a representative of the government department concerned to be made available at the inquiry.

(2) The Minister shall transmit any application made to him under the last foregoing paragraph to the government department concerned who shall make a representative of the department available to attend the inquiry.

(3) The said 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, provided that the appointed person shall disallow any questions which in his opinion are directed to the merits of Government policy.

Procedure at Inquiry

7.—(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 acquiring authority otherwise determines the acquiring 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 acquiring 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 paragraph (3) of Rule 6, 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 acquiring authority to alter or add to the reasons contained in the statement served under paragraph (4) of Rule 4 or any list of documents which accompanied such statement so far as may be necessary for the purpose of determining the questions in controversy between the parties, but shall (if necessary by adjourning the inquiry) give every statutory objector an adequate opportunity of considering any fresh reason or document and may make in his report a recommendation as to the payment of any additional costs occasioned by such an adjournment.

(6) If any statutory objector does not appear at the inquiry, the appointed person may at his discretion proceed with the inquiry and, if he does so, shall (subject to disclosure thereof at the inquiry) take into account any previous written representations of such objector in so far as the same appear to him to be proper and relevant to the matters in issue.

(7) 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

8.—(1) The appointed person may make an unaccompanied inspection of the land 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 acquiring authority or any statutory objector before or during the inquiry, inspect the land 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 acquiring 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.

Procedure after Inquiry

9.—(1) The appointed person shall after the close of the inquiry make a report in writing to the Minister which shall include the appointed person's findings of fact and his recommendations, if any, or his reason for not making any recommendations.

(2) Where the Minister—

(*a*) differs from the appointed person on a finding of fact, or

(*b*) after the close of the inquiry receives any new evidence (including expert opinion on a matter of fact) or takes into consideration 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 the acquiring authority and any statutory objector who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within twenty-one days or (if the Minister has received new evidence or taken into consideration any new issue of fact not being a matter of Government policy) of asking within twenty-one days for the reopening of the inquiry.

(3) The Minister 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 paragraphs (2) and (3) of Rule 4 shall apply as they applied to the original inquiry, with the substitution in paragraph (2) of the words " twenty-eight " for the words " forty-two ".

Notification of Decision

10.—(1) The Minister shall notify his decision, and his reasons therefor, or cause notification to be sent in writing to the acquiring authority and 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 recommendations.

(2) If any person entitled to be notified of the Minister'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 Minister within one month from the date on which he is notified of the Minister's decision or the date of the first publication of notice of confirmation of the order, whichever is the later.

(3) For the purposes of this Rule " report " does not include documents, photographs or plans appended to the report.

Service of Notices by Post

11. Notices or documents required or authorised to be served or sent under the provisions of any of the foregoing Rules may be sent by post.

Hearings

12. These Rules, except paragraph (3) of Rule 4, shall apply to any such hearing as is mentioned in Rule 2 hereof and for that purpose references in these Rules to a public local inquiry or an inquiry shall be construed as references to such a hearing.

Dated 9th July 1962.

Kilmuir, C.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules prescribe the procedure to be followed at public inquiries into proposals for the compulsory acquisition of land by local authorities.

Rule 4 prescribes the procedure before the inquiry. It requires the appropriate Minister to notify the acquiring authority of the substance of any objections he has received. Not less than 42 days' notice of the inquiry must be given by the Minister, unless the parties agree to shorter notice. The acquiring authority must, if they have not already done so, serve on each statutory objector a statement of their reasons for making the order and the statement must include any views expressed in writing by a government department to the acquiring authority in support of the order on which the authority propose to rely. Any persons interested must be given a reasonable opportunity of inspecting and taking copies of the statement.

Rule 5 entitles the acquiring authority, any statutory objectors and at the discretion of the appointed person any other person to appear at the inquiry, while Rule 6 provides for the representation, at the request of any statutory objector, of any government department which has expressed a view in support of the order.

Rule 7 prescribes the procedure at the inquiry and Rule 8 makes provision for the inspection of the site by the person appointed to hold the inquiry.

Rule 9 provides for the appointed person making a report to the Minister, which must include his findings of fact and his recommendations, if any, or reasons for not making any recommendations. Where the Minister differs from the appointed person on a finding of fact or after the close of the inquiry receives new evidence (including expert opinion on a matter of fact) or takes into consideration any new issue of fact (not being a matter of Government policy) and is in consequence disposed to disagree with any recommendation made by the appointed person, he must not come to a decision at variance with the recommendation without first giving the acquiring authority and any statutory objector who appeared at the inquiry an opportunity of making representations or (if the Minister has received new evidence or taken a new issue of fact into consideration) of having the inquiry re-opened.

Rule 11 requires the Minister to notify his decision and reasons to the acquiring authority and the statutory objectors and to any other person who appeared at the inquiry and who has asked to be notified.