STATUTORY INSTRUMENTS

1967 No. 720

TRIBUNALS AND INQUIRIES

The Compulsory Purchase by Ministers (Inquiries Procedure) Rules 1967

Made - - - -	*9th May* 1967
Laid before Parliament	*12th May* 1967
Coming into Operation	*22nd May* 1967

I, Gerald, Baron Gardiner, 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) (inserted in that Act by section 33 of the Town and Country Planning Act 1959(b)) 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 Ministers (Inquiries Procedure) Rules 1967.

(2) These Rules shall come into operation on the 22nd May 1967, but shall not apply to any draft compulsory purchase order in respect of which the notices required by paragraph 3(1)(*a*) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946(c), (as that paragraph has effect by virtue of paragraph 7 of that Schedule) have been published before that date.

Application of Rules

2. These Rules apply to public local inquiries, and (except rule 4(2)) to hearings before a person appointed by the Minister, held under the provisions of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946, or under those provisions as applied by any other enactment, for the purpose of inquiring into the authorisation of any compulsory purchase of land by a Minister of the Crown.

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 Minister of the Crown who has, in accordance with the provisions of Schedule 1 to the Act of 1946, prepared in draft an order authorising the compulsory purchase of land by him, and includes any Board presided over by a Minister;

"appointed person" means the person appointed by the Minister to hold an inquiry or hearing to which these Rules apply; and "inquiry" (except in rule 4(2)) includes such a hearing;

(a) 1958 c. 66. (b) 1959 c. 53. (c) 1946 c. 49.

"the land" means the land to which the draft order relates, or, where a right over land is proposed to be acquired, the land over which the right will be exercised if the order is made;

"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 preparation of the draft order, has duly objected to the draft order in accordance with the provisions of Schedule 1 to the Act of 1946 and whose objection has not been withdrawn, or disregarded under paragraph 4(4) of that Schedule or section 86(1) of the Town and Country Planning Act 1962(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.

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 Minister, who shall give not less than 42 days' notice in writing of such date, time and place to every statutory objector at the address furnished to the Minister:

Provided that—

(i) with the consent in writing of the statutory objectors the Minister may give such lesser period of notice as may be agreed and in that event he may specify a date for service of the statement referred to in paragraph (1) of rule 5 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.

(2) Not later than 14 days before the date of the inquiry the Minister shall 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 and shall also publish a notice of the inquiry in one or more newspapers circulating in the locality in which the land is situated.

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 Minister specifies a later date under proviso (i) to paragraph (1) of rule 4) not later than 28 days before the date of the inquiry, the Minister shall, unless he has already done so, serve on each statutory objector a written statement of his reasons for proposing to make an order in the terms of the draft order.

(2) Where another government department has expressed in writing to the Minister a view in support of the draft order and the Minister 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 Minister 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 Minister shall afford every statutory objector a reasonable opportunity to inspect and, where practicable, to take copies of the documents.

(4) The Minister 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.

(a) 1962 c. 38. (b) 1889 c. 63.

Representation of Minister at Inquiry

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

(2) The Minister shall make a representative available at the inquiry to answer questions in elucidation of the statement referred to in rule 5, not being questions which in the opinion of the appointed person are 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 Minister a view in support of the draft order and the Minister has included that view in his statement, any statutory objector may, not later than 14 days before the date of the inquiry, apply in writing to the Minister for a representative of the 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 and a representative of that department shall be made available to attend the inquiry.

(3) 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 questions which in his opinion are 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 for the benefit of some or all persons so interested.

Procedure at Inquiry

9.—(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 Minister otherwise determines, the Minister 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 Minister 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 rule 6 and rule 7(3) 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 Minister to alter or add to his statement or any list of documents which accompanied it 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 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) If any statutory objector does not appear at the inquiry, the appointed person may at his discretion proceed with the inquiry.

(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

10.—(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 Minister 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 an inspection, announce during the inquiry the date and time at which he proposes to do so.

(3) The Minister 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

11.—(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 reasons 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 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 all statutory objectors who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within 21 days or (if the Minister has taken into consideraton any new evidence or any new issue of fact not being a matter of government policy) of asking within 21 days for the re-opening of the inquiry.

(3) The Minister may in any case if he thinks fit cause the inquiry to be re-opened, and shall cause it to be re-opened if asked to do so in accordance with the last foregoing paragraph; and if the inquiry is re-opened paragraphs (1) and (2) of rule 4 shall apply as they apply to the original inquiry, with the substitution in paragraph (1) of "28" for "42".

Notification of Decision

12.—(1) The Minister shall notify his decision, and his reasons therefor, in writing 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 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 decision or the date of the first publication of notice of the making 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, but the Minister shall afford any person entitled to be supplied with a copy of the report an opportunity, if he wishes, of inspecting such documents, photographs and plans.

Service of Notices by Post

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

Dated 9th May 1967.

Gardiner, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

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

Rule 4 requires the Minister to give not less than 42 days' notice of the inquiry unless the parties agree to shorter notice. Rule 5 requires the Minister to serve on every statutory objector a written statement of the Minister's reasons for proposing to make the order, which must include a statement of the views of any other Government department on which the Minister proposes to rely. Any persons interested must be given a reasonable opportunity of inspecting and taking copies of the statement.

Rule 6 deals with the representation of the Minister at the inquiry, while rule 7 provides that any Government department which has expressed a view in support of the draft order must, if so requested by any objector, make a representative available at the inquiry.

Rule 9 prescribes the procedure at the inquiry and rule 10 provides for the inspection of the land by the person appointed to hold the inquiry.

Rule 11 provides for the appointed person's making a report to the Minister, which must include his findings of fact and his recommendations, if any, or his 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 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) 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 all statutory objectors who appeared at the inquiry an opportunity of making representations or (if the Minister has taken into consideration any new evidence or new issue of fact) of having the inquiry re-opened.

Rule 12 requires the Minister to notify his decision and reasons to the statutory objectors and to any other person who appeared at the inquiry and who has asked to be notified.