STATUTORY INSTRUMENTS

1976 No. 746

TRIBUNALS AND INQUIRIES

The Compulsory Purchase by Public Authorities

(Inquiries Procedure) Rules 1976

Made - - - -	14*th May* 1976
Laid before Parliament	26*th May* 1976
Coming into Operation	17*th June* 1976

The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971(a) and after consultation with the Council on Tribunals, hereby makes the following Rules:—

Citation and commencement

1.—(1) These Rules may be cited as the Compulsory Purchase by Public Authorities (Inquiries Procedure) Rules 1976.

(2) These Rules shall come into operation on 17th June 1976 but shall not apply to any compulsory purchase order made before that date.

Application of Rules

2. These Rules shall apply to public local inquiries and (except rule 4(3)) to hearings before a person appointed by the confirming authority held under the provisions of section 5 of or Schedule 1 to the Act of 1946 for the purpose of inquiring into the authorisation of any compulsory purchase of land by a public 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(b);

"acquiring authority" means a public authority which has, under the provisions of Schedule 1 to the Act of 1946, made and submitted to the Secretary of State for confirmation an order authorising the compulsory purchase of land, and "order" means an order so made and submitted;

"appointed person" means the person appointed by the Secretary of State to hold an inquiry or hearing to which these Rules apply, and "inquiry" (except in rule 4(3)) includes such a hearing;

"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 a right would be exercised;

(a) 1971 c. 62. (b) 1946 c. 49.

"public authority" means the council of a county or district, the council of a London Borough, the Common Council of the City of London, the Greater London Council, the receiver of the metropolitan police district, the Peak Park Joint Planning Board, or the Lake District Special Planning Board or any other authority being a local authority within the meaning of the Local Loans Act 1875(a) and includes any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid, and includes also the Honourable Society of the Inner Temple, the Honourable Society of the Middle Temple, a development corporation as defined in section 2 of the New Towns Act 1965(b) and the Land Authority for Wales;

"the Secretary of State" means the authority referred to as the confirming authority in Schedule 1 to 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 whose objection has not been disregarded under—

(*a*) paragraph 4(4) of Schedule 1 to the Act of 1946,

(*b*) paragraph 4(6) or (7) of the said Schedule 1 as modified by paragraph 2 of Schedule 4 to the Community Land Act 1975(c),

(*c*) section 54(1) of the Highways Act 1971(d), or

(*d*) section 132(1) of the Town and Country Planning Act 1971(e).

(2) As respects an order made by the Land Authority for Wales, the reference to an owner, lessee or occupier of the land or any part thereof in the definition of "statutory objector" shall include a reference to the council of a county or district within whose area the land or any part thereof is situated.

(3) References in these Rules to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended or extended by or under any other enactment and, in particular, references to the Act of 1946 shall include a reference to that Act as modified by Part I of Schedule 4 to the Community Land Act 1975 in relation to the compulsory purchase of land under section 15 of that Act.

(4) The Interpretation Act 1889(f) 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 Secretary of State 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

(a) 1875 c. 83. (b) 1965 c. 59. (c) 1975 c. 77.
(d) 1971 c. 41. (e) 1971 c. 78. (f) 1889 c. 63.

may be varied by the Secretary of State who shall give or cause to be given not less than 42 days' notice in writing of such date, time and place to the acquiring authority and every statutory objector at the address furnished to the Secretary of State:

Provided that—

(i) with the consent in writing of the statutory objectors and of the acquiring authority the Secretary of State 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) below 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 Secretary of State 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 Secretary of State otherwise directs, not later than 14 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 Secretary of State 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 Secretary of State specifies a later date under proviso (i) to paragraph (2) above) not later than 28 days before the date of the inquiry, the acquiring authority shall, unless it has already done so—

(*a*) serve on each statutory objector a written statement of its reasons for making the order, and

(*b*) supply a copy of the statement to the Secretary of State.

(5) Where a government department has expressed in writing to the acquiring authority a view in support of the order and the acquiring authority proposes to rely on such expression of view in its submissions at the inquiry, the acquiring authority shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of that statement to the government department concerned within the period specified in paragraph (4) above.

(6) Where the acquiring authority intends 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 any 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 has set out such view in the statement referred to in rule 4(4) a representative of the government department concerned shall be made available at the inquiry.

(2) 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 rule 6(2), 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 rule 4(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) 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 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

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 Secretary of State 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 Secretary of State—

(*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 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 21 days or (if the Secretary of State has taken into consideration any new evidence or any new issue of fact not being a matter of government policy) of asking within 21 days for the reopening of the inquiry.

(3) The Secretary of State 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

rule 4(2) and (3) shall apply as it applied to the original inquiry, with the substitution in rule 4(2) of the words "28" for the words "42".

Notification of decision

10.—(1) The Secretary of State 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 Secretary of State'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 Secretary of State within one month from the date on which he is notified of the Secretary of State'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, but any person entitled to be supplied with a copy of the report under paragraph (2) above may apply to the Secretary of State within six weeks from the date on which notice of the confirmation of the order is first published in accordance with the provisions of Schedule 1 to the Act of 1946 in that behalf, for an opportunity of inspecting such documents, photographs and plans and the Secretary of State shall afford him such an opportunity.

Service of notices by post

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

Revocation of previous Rules

12. The Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962(a) are hereby revoked as respects compulsory purchase orders made on and after 17th June 1976.

Dated 14th May 1976.

Elwyn-Jones, C.

(a) S.I. 1962/1424 (1962 II, p. 1572).

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules re-enact the Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962 (S.I. 1962/1424) with amendments and modifications. The principal changes are—

(i) to amend rules 2 and 3 so as to apply the Rules to additional authorities with powers to make compulsory purchase orders under section 15 of the Community Land Act 1975, and so as to apply the Rules to inquiries held into compulsory purchase orders made under that Act in circumstances where there is no obligation to hold such an inquiry;

(ii) to extend the definition of statutory objector in the case of acquisitions by the Land Authority for Wales so as to include the councils of counties and districts within whose area the land is situated, see paragraph 6 of Schedule 4 to the Act of 1975;

(iii) to introduce in the definition of "statutory objector" references to the disregard of objections under section 54(1) of the Highways Act 1971 and paragraphs 4(6) and (7) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 as modified by Schedule 4 to the Community Land Act 1975;

(iv) to make it clear in rule 4(4) and (5) that the statement of reasons should be served on the Secretary of State and on the department concerned not later than 28 days before the inquiry;

(v) to provide in rule 6 that a representative of a government department shall be made available at the inquiry in all cases where the department has expressed views, and not merely when so requested by a statutory objector;

(vi) to allow the "appointed person" to take into account any written representations received by him before, and disclosed at, the inquiry, and not merely those received from statutory objectors who did not appear at the inquiry;

(vii) to give anyone entitled to a copy of the report of the inquiry a right, under rule 10(3), to inspect any documents, photographs or plans appended to the report providing application is made to the Secretary of State within six weeks of the order becoming operative.

The other alterations are minor or drafting amendments.