STATUTORY INSTRUMENTS

1986 No. 1957

TRIBUNALS AND INQUIRIES

The Road Humps (Secretary of State) (Inquiries Procedure) Rules 1986

Made - - - - -	17*th November* 1986
Laid before Parliament	24*th November* 1986
Coming into Operation	15*th December* 1986

ARRANGEMENT OF RULES

1. Citation and commencement
2. Application of Rules
3. Interpretation
4. Notice of inquiry and documents for inspection
5. Written representations
6. Appearances at inquiry
7. Procedure at inquiry
8. Site inspection
9. Procedure after inquiry
10. Notification of decision
11. Notices or documents
Schedule 1. Particulars to be included in notice of inquiry.
Schedule 2. Requirements as to availability of documents for inspection.

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. These Rules shall come into operation on 15th December 1986 and may be cited as the Road Humps (Secretary of State) (Inquiries Procedure) Rules 1986.

Application of Rules

2. These Rules apply to local inquiries caused by the Secretary of State to be held pursuant to section 90C(4) of the Act.

(a) 1971 c. 62. Road humps inquiries were designated "statutory inquiries" by S.I. 1983/1287.

Interpretation

3. In these Rules, unless the content otherwise requires—

(1) "the Act" means the Highways Act 1980**(a)**;

"appointed person" means the person appointed by the Secretary of State to hold the inquiry;

"inquiry" means any inquiry to which these Rules apply;

"objector" means a person who has objected to the proposal in accordance with section 90C(2) of the Act and who has not withdrawn his objection;

"road hump proposal" means a proposal to construct a road hump or a series of road humps under section 90A or 90B of the Act;

"road hump site" means the length of highway where the road hump or series of road humps is proposed to be constructed;

and any other expression which is also used in the Act or in the Highways (Road Humps) Regulations 1986**(b)** has the same meaning as in the Act or those Regulations.

(2) In these Rules, unless the context otherwise requires, any reference to a rule or a schedule followed by a number is a reference to the rule of, or Schedule to, these Rules which bears that number.

Notice of inquiry and documents for inspection

4.—(1) Where in connection with a road hump proposal an inquiry is to be held, the Secretary of State shall—

(*a*) publish once at least in a local newspaper circulating in the area in which the road hump site is situated a notice of the inquiry containing the particulars specified in Part 1 of Schedule 1; and

(*b*) publish a similar notice in the London Gazette; and

(*c*) comply with the requirements of Part II of Schedule 1 and Schedule 2 as to the display of notices at the road hump site and as to the availability of documents for inspection; and

(*d*) not later than the date of the first publication of the notice required by sub-paragraph (*a*) above inform in writing any objector of the date, time and place of the inquiry.

(2) There shall be not less than 42 days between the date on which the inquiry is due to begin and the date upon which the procedure for giving notice of the inquiry in accordance with paragraph (1) above is completed.

Written representations

5. Any person interested in the proposal may, whether or not he proposes to appear at the inquiry, send to the appointed person, at the address indicated pursuant to rule 4, such written representations as he may wish to make in relation to the subject matter of the inquiry with a view to their being taken into account by that person at the inquiry.

(a) 1980 c. 66; sections 62 and 329 were amended by, and sections 90A to 90F were inserted by section 32 of, and Part I of Schedule 10 to, the Transport Act 1981 (c. 56).

(b) S.I. 1986/1856.

Appearances at inquiry

6.—(1) Every objector shall be entitled to be heard at the inquiry.

(2) Any other person may be heard at the inquiry at the discretion of the appointed person.

(3) Any person who may be heard at the inquiry may be represented by counsel, a solicitor or any other person.

(4) 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 on behalf of some or all of the persons so interested.

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) Any person appearing at the inquiry may call evidence and cross-examine persons giving evidence only to the extent permitted by the appointed person.

(3) Any representative of a government department at the inquiry shall give evidence and be subject to cross-examination to the same extent as other witnesses, save that nothing in this paragraph shall require such representative to answer any question which in the opinion of the appointed person is directed to the merits of government policy and the appointed person shall disallow any such question.

(4) The appointed person shall not require or permit the giving or production of any evidence, whether written or oral, which would in his opinion be contrary to the public interest; but save as mentioned above any evidence may be admitted at the discretion of the appointed person. The appointed person may direct that documents tendered in evidence may be inspected by any person entitled or permitted to be heard at the inquiry and that facilities be afforded to him to take or obtain copies thereof.

(5) If any person entitled to be heard at the inquiry is not present for that purpose the appointed person may proceed with the inquiry at his discretion.

(6) The appointed person may take into account any representations received by him before or during the inquiry from any person provided that he discloses the same to the inquiry.

Site inspection

8.—(1) Subject to the following provisions of this rule, the appointed person may make an inspection of the road hump site before, during or after the close of the inquiry.

(2) Where the appointed person inspects the road hump site before or during the inquiry he may do so unaccompanied and without giving notice of his intention to any person.

(3) The appointed person may not inspect the road hump site after the close of the inquiry unless he gives to any person whom he may consider appropriate notice of his intention to do so before the close of the inquiry.

(4) Where the appointed person gives notice of his intention to inspect the road hump site he shall announce the date and the time at which he proposes to do so and any person entitled to be heard at the inquiry shall be entitled to accompany him; 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. That report shall include the appointed person's findings of fact, his conclusions and his recommendations, if any, or his reasons 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 persons who were heard at the inquiry or who made written representations in accordance with rule 5 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 re-opening of the inquiry.

(3) The Secretary of State may in any case if he thinks fit cause the inquiry to be re-opened. If the inquiry is re-opened, the provisions of these rules shall apply as they applied to the original inquiry, but with a substitution in rule 4(2) of "28" for "42". The appointed person may, if he thinks fit, take into account, either in whole or in part, the transcript, if any, of the proceedings at the original inquiry.

Notification of decision

10.—(1) The Secretary of State shall notify his decision, and his reasons for it in writing to any person who, having appeared at the inquiry or submitted written representations in accordance with rule 5, has asked to be notified of the decision.

(2) 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; and if any person entitled to be notified of the Secretary of State's decision under paragraph (1) has not received a copy of the appointed person's report, he shall be supplied with a copy of it on written application made to the Secretary of State within one month from the date of the notification to him of the decision.

(3) For the purposes of this Rule "report" does not include documents, photographs, maps or plans appended to a report but any person entitled to be supplied with a copy of a report under paragraph (2) above may apply to the Secretary of State in writing within six weeks of the notification to him of the decision or the supply to him of the report, whichever is the later, for an opportunity of inspecting such documents, photographs, maps and plans and the Secretary of State shall afford him an opportunity accordingly.

Notices or documents

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

Hailsham of St. Marylebone, C.

Dated 17th November 1986.

SCHEDULE 1

PART I—PARTICULARS TO BE INCLUDED IN NOTICE OF INQUIRY

1. The name or other brief description of the road hump site.

2. The address at which a copy of the particulars of the road hump proposal, a copy of the map relating to the proposal, and a copy of a statement of the Secretary of State's reasons for the proposal can be inspected, and the times at which inspection can take place at that address.

3. A statement that an inquiry will be held in connection with the proposal.

4. The date, time and place at which the inquiry will start.

5. The name of the appointed person.

6. The address to which written representations may be sent in accordance with rule 5.

PART II—REQUIREMENTS AS TO DISPLAY OF NOTICES IN A HIGHWAY

1. A notice containing the particulars specified in Part I of this Schedule shall be displayed in a prominent position at each end of the road hump site and in such other positions as the Secretary of State thinks requisite for informing persons using the highway about the proposal.

2. The notice shall first be displayed in accordance with paragraph 1 above at the same time as the notice referred to by rule 4(1)(*a*) is first published in the local newspaper and the Secretary of State shall take reasonable steps to ensure that it remains in a legible condition and continues to be so displayed until the date on which the inquiry begins.

SCHEDULE 2

REQUIREMENTS AS TO AVAILABILITY OF DOCUMENTS FOR INSPECTION

1. The documents referred to in paragraph 2 of Schedule 1 shall be made available for inspection during normal office hours at the address specified in the notice of the inquiry on the date on which the notice is first published in accordance with rule 4, and they shall continue to be so available at that address until the inquiry begins and thereafter at the place at which the inquiry is held until the close of the inquiry.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules regulate the procedure to be followed in connection with local inquiries caused by the Secretary of State for Transport to be held under section 90C(4) of the Highways Act 1980 in relation to proposals to construct road humps under section 90A or 90B of that Act.