STATUTORY INSTRUMENTS

2009 No. 455

TRIBUNALS AND INQUIRIES, ENGLAND

The Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009

Made - - - -	*3rd March 2009*
Laid before Parliament	*11th March 2009*
Coming into force - -	*6th April 2009*

The Lord Chancellor, in exercise of the powers conferred by section 9 of the Tribunals and Inquiries Act 1992(**a**), and after consultation with the Administrative Justice and Tribunals Council, makes the following Rules:

Citation, commencement and application

1.—(1) These Rules may be cited as the Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009 and shall come into force on 6th April 2009.

(2) These Rules apply in relation to—

(a) appeals and applications made on or after 6th April 2009; and

(b) England only.

Amendment of the Town and Country Planning (Hearings Procedure)(England) Rules 2000

2.—(1) The Town and Country Planning (Hearings Procedure) (England) Rules 2000(**b**) are amended as follows.

(2) In rule 2 (interpretation)—

(a) omit the definition of "relevant notice"; and

(b) for the definition of "starting date" substitute—

""starting date" means the date of the notice given by the Secretary of State under rule 3A;".

(3) After rule 3 (application of Rules) insert—

"Notice from the Secretary of State

3A.—(1) In the case of an appeal under section 78 of the Planning Act(**c**) as soon as practicable after a determination has been made under section 319A of the Planning Act that the appeal is to proceed at a hearing, the Secretary of State shall send a notice to this effect to the appellant and the local planning authority.

(**a**) 1992 c. 53. There are amendments to section 9 which are not relevant to these Rules.
(**b**) S.I. 2000/1626. Amended by S.I. 2003/956.
(**c**) 1990 c. 8. Section 319A was inserted by section 196 of the Planning Act 2008 (c. 29).

(2) In the case of any other appeal to which these Rules apply, the Secretary of State shall, as soon as practicable after receipt of all the documents required to enable the appeal to proceed, send a notice to the appellant and the local planning authority, informing them that a hearing is to be held ".

(4) In rule 4 (preliminary information to be supplied by local planning authority)—

(a) in paragraph (1) for "relevant notice" substitute "notice under rule 3A"; and

(b) in paragraph (2) after "has been notified" insert "in writing".

(5) In rule 5(2) (notification of name of inspector) after "shall notify" insert "in writing".

(6) In rule 6 (receipt of hearing statements etc)—

(a) omit paragraph (4);

(b) in paragraph (5)(a)—

(i) after (1) insert "and"; and

(ii) omit "and any comments received pursuant to paragraph (4)";

(c) in paragraph (6)(b) omit "and comments made by the authority under paragraph (4)";

(d) in paragraph (7) for "(4)" substitute "(3)"; and

(e) in paragraph (8) "for paragraphs (3) and (4)" substitute "paragraph (3)".

(7) In rule 8(1) (method of procedure)—

(a) for "If" substitute "Subject to paragraphs (3) and (4), if";

(b) after "Secretary of State" insert "in writing"; and

(c) in sub-paragraph (a) after "of his opinion" insert "in writing".

(8) In rule 8(2) for "If" substitute "Except in the case of an appeal under section 78 of the Planning Act, if".

(9) After rule 8(2) insert—

"(3) In the case of an appeal under section 78 of the Planning Act, if either the appellant or the local planning authority at any time before or during a hearing is of the opinion that the hearings procedure is inappropriate to determine the appeal and that the appeal should not proceed in this way then they may inform the Secretary of State in writing, before the hearing, or the inspector, during the hearing and the reasons for it.

(4) Where paragraph (3) applies, Secretary of State shall consult the other party, who may inform the Secretary of State of their opinion in writing pursuant to this paragraph, before exercising the power in section 319A(4) of the Planning Act.".

(10) In rule 13(4) (procedure after hearing – non-transferred appeals) after "without first notifying" insert "in writing".

(11) In rule 14(3)(a) (procedure after hearing – transferred appeal) after "notifying" insert "in writing".

(12) In rule 20(2) (Mayor of London)—

(a) for sub-paragraph (a) substitute—

"(a) in rule 3A—

(i) in paragraph (1), after "the appellant" insert ", the Mayor";

(ii) in paragraph (2), after "the appellant" insert ", the Mayor"";

(b) in sub-paragraph (c) omit sub-paragraph (iv); and

(c) in sub-paragraph (e) at the end insert—

"(iii) in paragraph (3), for "If either the appellant" substitute "If the appellant, the Mayor";

(iv) in paragraph (4), for "party" substitute "parties"".

Amendment of the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

3.—(1) The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000(**a**) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) omit the definition of "relevant notice"; and

(b) for the definition of "starting date" substitute—

""starting date" means the date of the notice given by the Secretary of State under rule 3A;".

(3) After rule 3 (application of Rules) insert—

"Notice from the Secretary of State

3A.—(1) In the case of an appeal under section 78 of the Planning Act as soon as practicable after a determination has been made under section 319A of the Planning Act that the appeal is to proceed at an inquiry, the Secretary of State shall send a notice to this effect to the appellant and the local planning authority.

(2) In the case of any other appeal to which these Rules apply, the Secretary of State shall as soon as practicable after receipt of all the documents required to enable the appeal to proceed, send a notice to the appellant and the local planning authority, informing them that an inquiry is to be held.".

(4) In rule 4 (preliminary information to be supplied by local planning authority)—

(a) in paragraph (1) for "relevant notice" substitute "notice under rule 3A"; and

(b) in paragraph (4) after "have been notified" insert "in writing".

(5) In rule 5(1) (notification of name of inspector) after "shall notify" insert "in writing".

(6) In rule 6 (receipt of statements of case etc)—

(a) in paragraph (6)—

(i) after "to send" insert "within 4 weeks of being so required"; and

(ii) in sub-paragraph (a) omit "within 4 weeks of being so required";

(b) in paragraph (9)(a) omit "in writing";

(c) in paragraph (10)(a) omit "in writing";

(d) in paragraph (12) omit "and written comments";

(e) in paragraph (13)—

(i) in sub-paragraph (a) omit "written comments,"; and

(ii) in sub-paragraph (b) omit "any written comments,"; and

(f) omit paragraphs (14) and (15).

(7) In rule 9 (notification of appointment of assessor) after "he shall notify" insert "in writing".

(8) In rule 13 (inspector may act in place of Secretary of State) omit "(14) and (15)".

(9) In rule 15(1)(b) (statement of common ground) for "not less than 4 weeks before the date fixed for the holding of the inquiry" substitute "within 6 weeks of the starting date".

(10) In rule 16(5) (procedure at inquiry) for "(7)" substitute "(9)".

(11) In rule 18(3)(a) (procedure after inquiry) after "notifying" insert "in writing".

(12) In rule 24(2) (Mayor of London)—

(a) for sub-paragraph (a) substitute—

(**a**) S.I. 2000/1625. Amended by S.I. 2003/956 and S.I. 2008/2831.

"(a) in rule 3A—

(i) in paragraph (1), after "the appellant" insert ", the Mayor";

(ii) in paragraph (2), after "the appellant" insert ", the Mayor";";

(b) in sub-paragraph (c) omit paragraphs (ix) and (x).

Amendment of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000

4.—(1) The Town and Country Planning (Inquiries Procedure) (England) Rules 2000(**a**) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) omit the definition of "relevant notice"; and

(b) for the definition of "starting date" substitute—

""starting date" means the date of the notice given by the Secretary of State under rule 3A;".

(3) After rule 3 (application of Rules) insert—

"Notice from the Secretary of State

3A.—(1) In the case of an appeal under section 78 of the Planning Act as soon as practicable after a determination has been made under section 319A of the Planning Act that the appeal is to proceed at an inquiry, the Secretary of State shall send a notice to this effect to the appellant and the local planning authority.

(2) In the case of any other appeal or application to which these Rules apply, the Secretary of State shall as soon as practicable after receipt of all the documents required to enable the appeal or application to proceed, send a notice to the applicant and the local planning authority, informing them that an inquiry is to be held.".

(4) In rule 4 (preliminary information to be supplied by local planning authority)—

(a) in paragraph (1) for "relevant notice" substitute "notice under rule 3A"; and

(b) in paragraph (4) after "has been notified" insert "in writing".

(5) In rule 6 (receipt of statements of case etc)—

(a) in paragraph (6)—

(i) after "to send" insert "within 4 weeks of being so required"; and

(ii) in sub-paragraph (a) omit "within 4 weeks of being so required";

(b) in paragraph (9)(a) omit "in writing";

(c) in paragraph (10)(a) omit "in writing";

(d) in paragraph (13)—

(i) in sub-paragraph (a) omit "written comments,"; and

(ii) in sub-paragraph (b) omit "any written comments,";

(e) omit paragraphs (14) and (15); and

(f) in paragraph (16) omit "or written comments".

(6) In rule 9 (notification of appointment of assessor) after "he shall notify" insert "in writing".

(7) In rule 14(1)(b) (statement of common ground) for "not less than 4 weeks before the date fixed for the holding of the inquiry" substitute "within 6 weeks of the starting date".

(8) In rule 15(5) (procedure at inquiry) for "(7)" substitute "(9)".

(9) In rule 17(5) (procedure after inquiry) after "without first notifying" insert "in writing".

(**a**) S.I. 2000/1624. Amended by S.I. 2003/956 and S.I. 2008/2831.

(10) In rule 21(1)(b) (additional copies) omit "or comments".

(11) In rule 23(2) (Mayor of London)—

(a) for sub-paragraph (a) substitute—

"(a) in rule 3A—

(i) in paragraph (1), after "the appellant" insert ", the Mayor";

(ii) in paragraph (2), after "the applicant" insert ", the Mayor";";

(b) in sub-paragraph (d) omit paragraphs (x) and (xi).

Amendment of the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005

5.—(1) The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005(**a**) are amended as follows.

(2) In rule 13 (notification of appointment of assessor) after "he shall notify" insert "in writing".

(3) In rule 21(6) (procedure after inquiry) after "without first notifying" insert "in writing".

Signed by authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

3rd March 2009

(**a**) S.I. 2005/2115. To which there are amendments not relevant to these Rules.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Town and Country Planning (Hearings Procedure) (England) Rules 2000 ("the Hearings Rules"), the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (referred to in this note together as "the Inquiries Rules") and the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005.

The amendments make changes to the procedures in the Hearings and Inquiries Rules and clarificatory amendments to all of the Rules referred to above.

In the Hearings and Inquiries Rules amendments have been made to the definition of starting date. Starting date now means the date of the notice given by the Secretary of State setting out the procedure under which the appeal or application is to be considered. Rules imposing a new requirement on the Secretary of State to send such a notice and consequential amendments to these changes have been made (rule 2(2) to (4)(a), and (12)(a), rule 3(2) to (4)(a) and (12)(a), and rule 4(2) to (4)(a) and (11)(a).

In the Hearings and Inquiries Rules the right of the appellant, the local planning authority and any other person who sends a statement of case in accordance with these Rules, to comment on another person's statement of case within 9 weeks of the starting date, has been removed. Consequential amendments have also been made (rule 2(6) and (12)(b), rule 3(6)(d) to (f), (8), and (12)(b), and rule 4(5)(d) to (f), (10) and (11)(b)).

In the Inquiries Rules amendments have been made to bring forward the date for sending the statement of common ground to the Secretary of State (rule 3(9) and rule 4(7)).

All of the Rules listed above have been amended to ensure that where notification is given it must be given in writing (rule 2(4)(b), (5), (7)(b) and (c), (10) and (11), rule 3(4)(b), (5), (7) and (11), rule 4(4)(b), (6) and (9), and rule 5(2) and (3)).

In the Hearings Rules, the method of procedure has been amended to take into account the new power of the Secretary of State to determine the appeal procedure under section 319A of the Town and Country Planning Act 1990 (rule 2(7)(a), (8), (9) and (12)(c)).

Other clarificatory amendments have been made by rule 3(6)(a) to (c) and (10) and rule 4(5)(a) and (c) and (8).

An impact assessment has been prepared in relation to these Rules. This assessment has been placed in the Library of each House of Parliament and copies may be obtained from PSID, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU (telephone 020 7944 4817).

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