

1984 No. 999

TRIBUNALS AND INQUIRIES

The Drought Orders (Inquiries Procedure) Rules 1984

<i>Made - - - -</i>	<i>9th July 1984</i>
<i>Laid before Parliament</i>	<i>20th July 1984</i>
<i>Coming into Operation</i>	<i>13th August 1984</i>

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 Drought Orders (Inquiries Procedure) Rules 1984.

(2) These rules shall come into operation on 13th August 1984 but shall not apply to any application for a drought order which has been made to the Secretary of State 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 Secretary of State held under the provisions of paragraph 3(1) of Schedule 1 to the Drought Act 1976 (b) for the purpose of inquiring into any application for a drought order or of hearing any person who has duly objected to such an application.

Interpretation

3. In these rules, unless the context otherwise requires —

“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;

“drought order” means an order under the Drought Act 1976;

“statutory objector”, in relation to an application for a drought order, means a person who has duly objected to the application in accordance with the provisions of paragraph 1 of Schedule 1 to the Drought Act 1976 and whose objection has not been withdrawn;

“the authority”, in relation to an application for a drought order, means the regional water authority or statutory water company by whom the application is made.

Procedure before inquiry

4.— (1) The Secretary of State shall as soon as may be notify the authority of the substance of each objection received by him from a statutory objector

(a) 1971 c.62.

(b) 1976 c.44.

and, so far as practicable, shall also notify them of the substance of any other representations received by him.

(2) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Secretary of State who may, at his discretion, consider representations as to the degree of urgency appropriate to the proceedings. The Secretary of State shall give or cause to be given not less than 7 days' notice in writing of the date, time and place to the authority and to every statutory objector at the address furnished to the Secretary of State:

Provided that—

- (i) where it appears to the Secretary of State that a lesser period of notice should be given, he may give such a lesser period, 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 expedient 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 authority shall —

- (a) unless the Secretary of State otherwise directs, post notices of the inquiry, as soon as may be after they receive notice under paragraph (2) above, in conspicuous places in the area to which the application relates, and
 - (b) wherever it appears practicable to the authority to do so, publish such notices in one or more newspapers circulating in that area.
- (4) (a) As soon as may be after receiving notification of the substance of the objections of any statutory objector, and in any event (except where the Secretary of State specified a later date under proviso (i) to paragraph (2) above) not later than 3 days before the date of the inquiry, the authority shall, unless they have already done so —
- (i) serve on each statutory objector a written statement of their reasons for making the application, and
 - (ii) supply a copy of the statement to the Secretary of State.
- (b) The statement referred to in paragraph (4)(a) shall contain, as may be appropriate —
- (i) the date, time and place of the inquiry, or
 - (ii) a statement that, where possible, any inquiry or hearing will be held not less than 7 days after the last day (which shall be specified) on which objections may be, or might have been, made under paragraph 1 of Schedule 1 to the Drought Act 1976.

(5) Where a government department has expressed in writing to the authority a view in support of the order for which application has been made and the authority propose to rely on that expression of view in their submissions at the inquiry, the authority shall include it in the statement referred to in paragraph (4)(a) above and shall send a copy of that statement to the government department concerned within the period specified in that paragraph.

(6) Where the authority intend to refer to or put in evidence at the inquiry any documents (including maps and plans), the authority's statement shall be accompanied if the authority considers this to be practicable, by a list of those documents, together with a notice stating the times and places at which such

of those documents as are available before the date of the inquiry may be inspected by any statutory objector; and the authority shall afford to every statutory objector a reasonable opportunity to inspect and, where practicable, take copies of such documents as are so available.

(7) The authority shall afford to 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 paragraph (6) above.

Appearances at inquiry

5.— (1) The 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 authority may appear by any officer appointed by them for that purpose or by counsel or solicitor, and any other person entitled or permitted to appear under paragraph (1) above 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 authority a view in support of the order and the authority have set out such a 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 at 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 authority otherwise determines, the 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 shall determine.

(3) The authority and any statutory objector 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 authority may —
- (a) alter or add to the reasons contained in the statement served under rule 4(4), or
 - (b) refer to or put forward documents which have not been included in the list furnished under rule 4(6),

but the appointed person shall give to every statutory objector an adequate opportunity of considering any altered or added reason, or added document, if necessary by adjourning the inquiry for such period as he considers reasonable.

(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, insofar as those 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 any land before or during the inquiry without giving notice of his intention to any person entitled to appear at the inquiry.

(2) After the close of the inquiry the appointed person may inspect any land which appears to him to be affected by the application for a drought order, if he has reason to consider that such an inspection is necessary or expedient for the purposes of the inquiry.

(3) In all cases when the appointed person decides to make an inspection pursuant to paragraph (2) above, he shall announce during the inquiry the date and time at which he intends to do so.

(4) The 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.

(5) The appointed person, before he decides whether or not to inspect any land after the close of the inquiry, shall take into consideration any request concerning such an inspection which is made to him by the authority or by any statutory objector before or during the inquiry, but he shall not be required to comply with such a request.

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, conclusions, and recommendations, if any, or his reason for not making any recommendations.

(2) The Secretary of State may in any case if he thinks fit cause the inquiry to be reopened; and if the inquiry is reopened, rule 4(2) and (3) shall apply, so far as appropriate, as it applied to the original inquiry.

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 authority and 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 Secretary of State's decision under paragraph (1) above 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 on which notice of the making of the order is first published in accordance with the provisions of Schedule 1 to the Drought Act 1976, 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 making of the order is first published as aforesaid, for an opportunity of inspecting those 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.

Dated 9th July 1984.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This note is not part of the rules.)

These rules prescribe the procedure to be followed at public local inquiries and hearings held under paragraph 3(1) of Schedule 1 in connection with applications made to the Secretary of State for orders under the Drought Act 1976.

Provision is made for the notification of the date, time and place of an inquiry and for other action to be taken before an inquiry is opened (Rule 4), for the granting of entitlement or permission to persons to appear at the inquiry (Rule 5), for attendance by representatives of government departments (Rule 6), for the regulation of procedure at and after the inquiry (Rules 7 and 9) and for the making of site inspections (Rule 8).

Rule 10 prescribes the manner in which the Secretary of State is to notify his decision and empowers certain interested persons to receive a copy of the report of the person appointed to hold the inquiry or hearing.

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