STATUTORY RULES OF NORTHERN IRELAND

# 2015 No. 189

# PLANNING

## The Planning (Inquiry Procedure) Rules (Northern Ireland) 2015

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| *Made - - - -* | *26th March 2015* |
| *Coming into operation* | *22nd April 2015* |

The Department of the Environment makes the following Rules in exercise of the powers conferred on it by section 231(3) of the Planning Act (Northern Ireland) 2011(**1**).

### Citation and commencement

**1.** These Rules may be cited as the Planning (Inquiry Procedure) Rules (Northern Ireland) 2015 and shall come into operation on 22nd April 2015.

### Interpretation

**2.**—(1) In these Rules—

"the 2011 Act" means the Planning Act (Northern Ireland) 2011;

"the 2006 Rules" means the Planning (Inquiry Procedure) Rules (Northern Ireland) 2006;(**2**)

"application" means an application as described in section 235(1) and 235(4) of the 2011 Act and the "applicant" is the person making such an application;

"appointed representative" means a person appointed under section 233(1) or (2) and section 234(1) or (2) of the 2011 Act;

"certificate" means a certificate issued by the Secretary of State or Department of Justice under section 235 of the 2011 Act;

"closed evidence" means evidence which is subject to a direction;

"the Department" means the Department of the Environment;

"direction" means a direction given by the Secretary of State or Department of Justice under section 232(2) or 232(4) of the 2011 Act;

"document" includes a photograph, map or plan;

"electronic communication" has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001(**3**);

(**1**) 2011 c.25 (N.I.)
(**2**) S.R. 2006 No.213
(**3**) 2001 c.9 (N.I.) as amended by 2003 c.21

"inquiry" means a public local inquiry in relation to which these Rules apply;

"inspector" means a person appointed by the Department to hold an inquiry;

"land" means the land or building to which an inquiry relates;

"open evidence" means evidence which is not closed evidence;

"outline statement" means a written statement of the principal submissions which a person proposes to put forward at an inquiry;

"pre-inquiry meeting" means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously, and where two or more such meetings are held references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;

"relevant notice" means the Department's written notice informing the applicant that an inquiry is to be held;

"starting date" means the date of—

(a) the Department's written notice to the applicant that it has received all the documents required to enable it to entertain the application; or

(b) the relevant notice,

whichever is the later;

"statement of case" means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry and a list of any documents which that person intends to refer to or put in evidence;

"statement of common ground" means a written statement prepared jointly by the Department and the applicant, or the appointed representative and the applicant, which contains agreed factual information about the proposal, which is the subject of the application;

"statutory party" means—

(c) a person mentioned in section 45(4) of the 2011 Act; and

(d) a party mentioned in Part 2 of Schedule 3 to the Planning (General Development Procedure) Order (Northern Ireland) 2015(**4**)

whose representations the Department is required to take into account before determining the application to which an inquiry relates.

(2) In these Rules, and in relation to the use of electronic communications for any purpose of these Rules which is capable of being carried out electronically—

(a) the expression "address" includes any number or address used for the purposes of such communications, except that where these Rules impose an obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address;

(b) references to statements, notices or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Rules to serve, give or send any statement, notice or other document to any other person ("the recipient").

(4) The requirement shall be taken to be fulfilled where the statement, notice or other document transmitted by means of electronic communication is—

(a) capable of being accessed by the recipient;

(**4**) S.R. 2015 No. 72

(b) legible in all material respects; and

(c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4) "legible in all material respects" means that the information contained in the statement, notice or document is available to the recipient to no lesser extent than it would be if served, sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient's business hours, it shall be taken to have been received on the next working day; and for this purpose "working day" means a day which is not a Saturday, Sunday or a public holiday.

(7) A requirement in these Rules that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4).

(8) A requirement in these Rules to send more than one copy of a statement, notice or other document may be complied with by sending one copy only of the statement, notice or other document in question.

**Application of Rules**

**3.** These Rules apply in relation to an inquiry held by the Department in accordance with sections 26, 29, 88 and 114 of the 2011 Act.

**Preliminary information to be supplied**

**4.**—(1) The Department shall, on receipt of a certificate, notify the applicant in writing—

(a) that an inquiry is to be held for the purpose of determining the application unless the Department has not received any objections or representations in respect of it or every objection or representation made is withdrawn; and

(b) of the name and address of each statutory party who has made an objection or representation to it in relation to the application.

(2) This paragraph applies where—

(a) a Minister of the Crown, any government department or a district council falling within rule 10(1)(b) has expressed in writing to the Department the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions; or

(b) any person consulted in pursuance of a development order has made an objection or representation to the Department about the application.

(3) Where paragraph (1) applies and an inquiry is to be held, the applicant or, as the case may be, the person concerned under paragraph (2), unless they have already done so, shall forthwith after the starting date, request a direction by the Secretary of State or Department of Justice under section 232(2) or 232(4) of the 2011 Act.

(4) The Department shall ensure that within 2 weeks of the starting date—

(a) each statutory party; and

(b) each person who made representations to the Department about the application,

has been notified that an inquiry is to be held and of the address to which and of the period within which they may make representations to the Department.

**Procedure where inspector or planning appeals commission causes pre-inquiry meeting to be held**

**5.**—(1) The inspector or planning appeals commission shall hold a pre-inquiry meeting—

(a) if they expect an inquiry to last for 8 days or more, unless they consider this to be unnecessary; or

(b) in respect of shorter inquiries, if they consider this to be necessary.

(2) Where the inspector or planning appeals commission decide to hold a pre-inquiry meeting—

(a) they shall send to the Department and applicant—

(i) notice of their intention to hold a pre-inquiry meeting;

(ii) a statement of the matters about which they particularly wish to be informed for the purposes of their consideration of the application in question and, where a Minister of the Crown, any government department or a district council has expressed in writing to the Department a view which is mentioned in rule 4(2)(a), the inspector or planning appeals commission shall set this out in the statement.

(b) they shall send a copy of the statement described in paragraph 2(a)(ii) to the Minister, any government department or district council concerned;

(c) they shall publish in a newspaper circulating in the locality in which the land to which the application relates is situated a notice of their intention to hold a pre-inquiry meeting and of the statement sent in accordance with paragraph (2)(a)(ii); and

(d) the applicant and the Department shall ensure that within 8 weeks of the starting date 2 copies of each outline statement have been served on the inspector or planning appeals commission.

(3) The inspector or planning appeals commission shall, as soon as practicable after receipt, send a copy of the Department's outline statement to the applicant and a copy of the applicant's outline statement to the appointed representative and the Department.

(4) Where rule 4(2) applies or where the Secretary of State or Department of Justice has issued a direction the Department shall—

(a) include in its outline statement—

(i) the terms of the direction together with a statement of the reasons for it; and

(ii) any view expressed or representations made on which it intends to rely in its submission to the inquiry; and

(b) within the period mentioned in paragraph (2)(d) send a copy of its outline statement to the person concerned in rule 4(2).

(5) The inspector or planning appeals commission may in writing require a person who has notified them of an intention or a wish to appear at the inquiry to send an outline statement to them and the Department, and the open outline statement to the applicant.

(6) A person required by the inspector or planning appeals commission under paragraph 5 to send an outline statement to them and the Department, and the open outline statement to the applicant, shall ensure that these are served on the inspector or the planning appeals commission, the Department and the applicant within 4 weeks of the date of the inspector's or the planning appeal commission's written requirement.

(7) In this rule "open outline statement" means such part (if any) of an outline statement as does not include or refer to closed evidence.

(8) The inspector or planning appeals commission shall, as soon as practicable after receipt, send to the appointed representative each outline statement received in accordance with paragraph (5).

(9) The pre-inquiry meeting (or, where there is more than one, the first pre-inquiry meeting) shall be held within 16 weeks of the starting date.

(10) The inspector or planning appeals commission shall give not less than 3 weeks written notice of the pre-inquiry meeting to—

(a) the applicant;

(b) the Department;

(c) a person known at the date of the notice to be entitled to appear at the inquiry; and

(d) a person whose presence at the pre-inquiry meeting appears to them to be desirable,

and they may require the Department to take, in relation to notification of the pre-inquiry meeting, one or more of the steps which they may under rule 8(7) require them to take in relation to notification of the inquiry.

(11) The inspector or planning appeals commission—

(a) shall preside at the pre-inquiry meeting;

(b) shall determine the matters to be discussed and the procedure to be followed;

(c) may require a person present at the pre-inquiry meeting who, in their opinion, is behaving in a disruptive manner to leave; and

(d) may refuse to permit that person to return or to attend any further pre-inquiry meeting or may permit the person to return or attend only on such conditions as they may specify.

(12) Where a pre-inquiry meeting has been held pursuant to paragraph (1), the inspector or planning appeals commission may hold a further pre-inquiry meeting and they shall arrange for such notice to be given of a further pre-inquiry meeting as appears to them necessary; and paragraph (11) shall apply to such a pre-inquiry meeting.

(13) The applicant and the Department shall ensure that 2 copies of any further information requested by the inspector or planning appeals commission at the pre-inquiry meeting, have been served on them and a copy has been served on each statutory party within 4 weeks of the conclusion of the pre-inquiry meeting.

(14) The inspector or planning appeals commission shall, as soon as practicable after receipt of information provided under paragraph (13), send a copy of the information received from the applicant to the appointed representative and the Department and a copy of the information received from the Department to the appointed representative and the applicant.

**Receipt of Statement of Case etc.**

**6.**—(1) The Department shall ensure that within—

(a) 6 weeks of the starting date, or

(b) where a pre-inquiry meeting is held pursuant to rule 5, 4 weeks of the conclusion of that pre-inquiry meeting,

2 copies of its statement of case have been served on the inspector or planning appeals commission and a copy has been served on each statutory party.

(2) The Department shall—

(a) include in its statement of case details of the time and place where the opportunity to inspect and take copies described in paragraph (15) below shall be afforded including, in any case in which the Department relies on paragraph (16), the details mentioned in that paragraph; and

(b) where rule 4(2) applies, within the period specified in paragraph (1) send a copy of its statement of case to the person concerned.

(3) The applicant shall ensure that in any case where a pre-inquiry meeting is held pursuant to rule 5, 2 copies of his statement of case have been served on the inspector or planning appeals commission and a copy of his open statement has been served on each statutory party.