STATUTORY RULES OF NORTHERN IRELAND

2006 No. 213

PLANNING

The Planning (Inquiry Procedure) Rules (Northern Ireland) 2006

Made - - - -	*11th May 2006*
Coming into operation	*10th June 2006*

The Department of the Environment, in exercise of the powers conferred by Article 123(2) of the Planning (Northern Ireland) Order 1991(**1**) makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Planning (Inquiry Procedure) Rules (Northern Ireland) 2006 and shall come into operation on 10th June 2006.

Interpretation

2.—(1) In these Rules—

"application" means an application as described in Article 123B (1) of the 1991 Order and the "applicant" is the person making such an application;

"appointed representative" means a person appointed under Article 123A (4) or (5) of the 1991 Order;

"certificate" means a certificate issued by the Secretary of State under Article 123B of the 1991 Order;

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

"direction" means a direction given by the Secretary of State under Article 123A (2) of the 1991 Order;

"document" includes a photograph, map or plan;

"electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

(a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12)); or

(b) by other means but while in an electronic form;

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

(**1**) S.I.1991/1220 (N.I. 11) as amended by Article 22 of S.I. 2006/1252 (N.I. 7)

"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—

(a) a person mentioned in Article 25(3) of the 1991 Order; and

(b) a party mentioned in Article 15 of the Planning (General Development) Order (Northern Ireland) 1993(**2**)

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

"the Department" means the Department of the Environment;

"the 1991 Order" means the Planning (Northern Ireland) Order 1991.

(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—

(**2**) S.R. 1993 No. 278 as amended by S.R. 2000 No. 101

(a) capable of being accessed by the recipient;

(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 Article 123B (2) of the 1991 Order.

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 11(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 under Article 123A (2) of the 1991 Order.

(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 causes pre-inquiry meeting to be held

5.—(1) The inspector shall hold a pre-inquiry meeting—

(a) if he expects an inquiry to last for 8 days or more, unless he considers this to be unnecessary; or

(b) in respect of shorter inquiries, if he considers this to be necessary.

(2) Where the inspector decides to hold a pre-inquiry meeting—

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

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

(ii) a statement of the matters about which he particularly wishes to be informed for the purposes of his consideration of the application in question and, where a Minister of the Crown or a government department has expressed in writing to the Department a view which is mentioned in rule 4(2)(a), the inspector shall set this out in the statement.

(b) he shall send a copy of the statement described in paragraph 2(a)(ii) to the Minister or government department concerned;

(c) he shall publish in a newspaper circulating in the locality in which the land to which the application relates is situated a notice of his 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.

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

(6) A person required by the inspector under paragraph 5 to send an outline statement to him and the Department, and the open outline statement to the applicant, shall ensure that these are served on the inspector, the Department and the applicant within 4 weeks of the date of the inspector'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 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 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 him to be desirable,

and he may require the Department to take, in relation to notification of the pre-inquiry meeting, one or more of the steps which he may under Rule 9(7) require them to take in relation to notification of the inquiry.

(11) The inspector—

(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 his 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 him to return or attend only on such conditions as he may specify.

(12) Where a pre-inquiry meeting has been held pursuant to paragraph (1), the inspector may hold a further pre-inquiry meeting and he shall arrange for such notice to be given of a further pre-inquiry meeting as appears to him 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 at the pre-inquiry meeting, have been served on him and a copy has been served on each statutory party within 4 weeks of the conclusion of the pre-inquiry meeting.

(14) The inspector 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 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 and a copy of his open statement has been served on each statutory party.

(4) The inspector shall, as soon as practicable after receipt, send a copy of the Department's statement of case to the applicant and a copy of the applicant's statement of case to the Department.

(5) As soon as practicable, the applicant shall send to the Department and the Department shall send to the applicant a copy of any document, or of the relevant part of any document, referred to in the list of documents comprised in the other party's statement of case, as may be required in writing by the other party.