

Statutory Instrument 1996 No. 1022

The Lands Tribunal Rules 1996

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STATUTORY INSTRUMENTS

1996 No. 1022

LANDS TRIBUNAL

The Lands Tribunal Rules 1996

Made

27th March 1996

Coming into force

1st April 1996

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Explanatory Note

The Lord Chancellor, in exercise of the powers conferred on him by section 3 of the Lands Tribunal Act 1949^[1] and by section 84(3A) of the Law of Property Act 1925^[2], after consultation with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992^[3], hereby makes the following Rules—

PART I

Preliminary

Citation and commencement

1. These Rules may be cited as the Lands Tribunal Rules 1996 and shall come into force on 1st April 1996.

Interpretation

2.—(1) In these Rules—

"the Act" means the Lands Tribunal Act 1949;

"the 1961 Act" means the Land Compensation Act 1961^[4];

"appeal against a determination" means an appeal against a determination of any question by a government department, authority or person from whom an appeal to which the determining authority is respondent lies to the Lands Tribunal;

"authority" means the person or body in respect of whose decision an appeal is brought;

"the office" means the office for the time being of the Lands Tribunal;

"party" in relation to an appeal, means the appellant, the authority and any person who has served notice of intention to respond in accordance with rule 7;

"the President" means the President of the Lands Tribunal, or the member appointed under section 2(3) of the Act to act for the time being as deputy for the President;

"proceedings" means proceedings before the Lands Tribunal;

"rating appeal" means an appeal from the decision of a valuation tribunal in relation to non-domestic rating;

"the registrar" means the registrar of the Lands Tribunal or, as respects any powers or functions of the registrar, an officer of the Lands Tribunal authorised by the Lord Chancellor to exercise those powers or functions;

"the Tribunal" means the member or members of the Lands Tribunal selected under section 3(2) of the Act to deal with a case;

"valuation officer" means a valuation officer appointed under section 61 of the Local Government Finance Act 1988^[5] or any officer authorised by him in writing to act on his behalf;

(2) In these Rules, a form referred to by number alone means the form so numbered in Schedule 1 to these Rules

PART II

Composition and hearings of the Tribunal

Selection and powers of members of the Tribunal

3.—(1) The President may at any time substitute a member of the Lands Tribunal for a member that he has previously selected to sit as the Tribunal or as a member of the Tribunal to hear a case.

(2) Where members of the Lands Tribunal have been selected for a class or group of cases under the provisions of section 3(2) of the Act, the President may from time to time vary the members selected.

(3) Where the President has appointed a member of the Lands Tribunal to be the chairman of any members selected under paragraphs (1) or (2) the chairman shall have the same power as the President to substitute or vary the members selected.

(4) A member of the Tribunal selected to hear a case shall have power to do anything, in relation to that case, which the President has power to do under these Rules.

Notice of hearings and sittings of the Tribunal

4.—(1) The registrar shall, as soon as practicable after the commencement of proceedings before the Tribunal, send to each party a notice informing him of the date, time and place of the hearing.

(2) Upon receipt of a notice of intention to respond from a person who is not already a party to the proceedings, the registrar shall send to that person a notice informing him of the date, time and place of the hearing.

Hearings to be in public: exceptions

5.—(1) All hearings by the Tribunal shall be in public except where—

(a) it is acting as an arbitrator under a reference by consent under section 1(5) of the Act; or

(b) it is satisfied that, by reason of disclosure of confidential matters or matters concerning national security, it is just and reasonable for the hearing or any part of the hearing to be in private.

(2) The following persons shall be entitled to attend a hearing whether or not it is in private—

(a) the President or any member of the Tribunal notwithstanding that they do not constitute the Tribunal for the purpose of the hearing; and

(b) a member of the Council on Tribunals.

(3) The Tribunal, with the consent of the parties, may permit any other person to attend a hearing which is held in private.

PART III

Appeals

Notice of appeal

6.—(1) An appeal to the Lands Tribunal shall be made by sending to the registrar a written notice indicating an intention to appeal so that it is received by the registrar within 28 days from the date of the decision appealed against ("the disputed decision"), or within such other time as is prescribed by the enactment conferring the right to appeal.

(2) Where the notice referred to in paragraph (1) does not conform with the requirements set out in paragraph (3), the appellant shall, within such time as the registrar may direct, send to the registrar a notice which does so conform.

(3) The notice of appeal shall state that it is a notice of appeal and shall contain—

(a) the name and address of the appellant;

(b) the date and any reference number of the disputed decision and the name and address of the Authority;

(c) the grounds of appeal;

(d) where the appellant is represented, the name, address and profession of the representative; and

(e) the signature of the appellant or his representative and the date the notice was signed.

(4) The appellant shall attach to the notice of appeal a copy of the disputed decision and, where the appeal relates to a rating appeal, a copy of the proposal or determination that was the subject of the proceedings which led to the disputed decision.

(5) The appellant shall deliver or send the notice of appeal to the Lands Tribunal together with sufficient copies for service upon each of the parties to the proceedings which led to the disputed decision and upon the authority, and where appropriate, the valuation officer.

- (6) Upon receiving a notice of appeal the registrar shall—
- (a) enter particulars of the appeal in the Registrar of Appeals;
 - (b) serve a copy of the notice on the parties to the proceedings which led to the disputed decision other than the appellant, on the authority and, where applicable, on the valuation officer and inform the appellant of the date on which this was done; and
 - (c) inform the appellant and all persons on whom a copy of the notice of appeal is served of the number of the appeal entered on the Register which shall constitute the title of the appeal.

Notice of intention to respond

- 7.—(1) If a person on whom a copy of the notice of appeal is served intends to respond, he shall give written notice of his intention, signed and dated, stating—
- (a) whether he intends to respond separately or jointly with some other person;
 - (b) the grounds on which he opposes the appeal; and
 - (c) an address for service of notices and other documents on him.

(2) The notice of intention to respond shall be served on the registrar and the appellant within 28 days of the date of service of the copy of the notice of appeal.

(3) Where the registrar receives more than one notice of intention to respond, he shall serve a copy of each such notice on all parties other than the appellant.

Statement of case

8.—(1) A person giving notice of intention to respond is, in this rule, called a "respondent".

(2) Within 28 days of service of a notice of intention to respond, the appellant shall serve on the respondent from whom it is received, a statement of his case, including full particulars of the facts relied upon and any points of law on which he intends to rely at the hearing.

(3) Within 28 days of service of the appellant's statement, a respondent shall serve on the appellant a reply stating his case including full particulars of the facts relied upon and any points of law on which he intends to rely at the hearing.

(4) Where a party receives from the registrar a copy of a notice of intention to respond from another party in accordance with rule 7(3), he shall, within 28 days of service of such notice on him, send to that other party a copy of the reply referred to in paragraph (3).

(5) Where a party serves a statement or reply in accordance with paragraphs (2) or (3), he shall at the same time send a copy to the registrar with confirmation that the statement or reply has been served in accordance with this rule.

(6) A statement or reply served in accordance with this rule shall be accompanied by—

- (a) every valuation which the party proposes to put in evidence (which shall include all particulars and computations in support of the valuation), or a statement of the value or values which the parties have agreed, and

(b) either—

- (i) full particulars of any comparable properties and transactions to which the party intends to refer at the hearing in support of his case and a statement of the purpose for which the comparison is made; or
- (ii) a statement that no comparable properties or transactions will be referred to.

(7) If at the hearing of an appeal a party seeks to rely upon any valuation or other document which appears to the Tribunal not to have been served in accordance with this rule, it may adjourn the hearing on such terms as to costs or otherwise as it thinks fit.

PART IV

References

Application of Part IV

9. Part IV applies to any reference to the Lands Tribunal other than an appeal, or an application to which Part V or VI applies.

Notice of reference

10.—(1) A reference shall be made by sending to the registrar a notice of reference together with sufficient copies for service upon every other person named in the notice.

(2) The parties to the proceedings shall be the person lodging the notice of reference and the persons named in that notice.

(3) The notice of reference shall contain—

- (a) the name and address of the person lodging the reference and, if he is represented, the name, address and profession of the representative;
- (b) the name and address of every other person with an interest in the land to which the reference relates ("the land");
- (c) the address or description of the land;
- (d) the nature of the interest in the land of the person lodging the reference;
- (e) the statutory provision under which the reference is made; and
- (f) the signature of the person lodging the reference or his representative and the date the reference was signed.

(4) The person lodging the notice of reference shall attach to it—

- (a) where the matter relates to compensation payable on the compulsory acquisition of land—
 - (i) a copy of the notice to treat if one has been served;
 - (ii) a copy of the notice of entry if one has been served; and
 - (iii) any notice of claim and amendments of it delivered to the acquiring authority in pursuance of section 4 of the 1961 Act; and
- (b) in any other case, a copy of the order or other document in consequence of which proceedings for the determination of the reference are instituted including a copy of any agreement conferring jurisdiction on the Lands Tribunal.

(5) A notice of reference in relation to the compensation payable on the compulsory acquisition of land shall not be given before the expiration of 28 days from the date of service or constructive service of the notice to treat, or where no such notice is served or deemed in accordance with the appropriate statutory provision to be served, of the notice of claim.

Entry of reference

11.—(1) Upon receipt of a notice of reference, the registrar shall enter particulars of it in the Register of References and shall send a copy of the notice to every party to the proceedings other than the applicant.

(2) The registrar shall inform all parties to the proceedings of the number of the reference which shall constitute the title of the proceedings.

PART V

Applications under section 84 of the Law of Property Act 1925^[6] (Relief from restrictive covenants affecting land)

Interpretation

12. In this Part—

"section 84" means section 84 of the Law of Property Act 1925; and

"restriction" means a restriction, arising under a covenant or otherwise, as to the user of or building on any freehold land or any leasehold land held for a term of more than 40 years of which at least 25 years have expired.

Method of making application

13.—(1) A person interested in land affected by a restriction who wishes to make an application under the section shall send to the registrar in duplicate an application which shall contain—

- (a) the name and address of the person making the application and, if he is represented, the name, address and profession of the representative;
- (b) the address or description of the land to which the application relates;
- (c) the address or description of the land which is subject to the restriction;
- (d) the address or description of the land which, and the identity of any person (if known) who, has the benefit of the restriction or any person whom the applicant believes may have such benefit and the reasons for that belief;
- (e) the ground or grounds in section 84 on which the applicant relies and the reason he considers that that ground or those grounds apply;
- (f) a statement as to whether the applicant is applying to discharge the restriction wholly or for its modification, and if the latter the extent of the modification;
- (g) a statement as to whether any planning permission has been applied for, granted or refused within the five years preceding the application in respect of the land the subject of the application;

(h) the signature of the person making the application or his representative and the date of the signature.

- (2) The application referred to in paragraph (1) shall be accompanied by—
- (a) a copy of the instrument imposing the restriction or, if this is not available, documentary evidence of the restriction; and
 - (b) a plan identifying the land to which the application relates and, so far as practicable, all the land which is subject to the restriction and the land which has the benefit of the restriction.

(3) An application may be made jointly by two or more persons whether the land in which they are interested is the same land or different parts of the land affected by the restriction.

Publication of notices

14.—(1) Upon receipt of an application, the registrar shall determine what notices are to be given, and whether these should be given by advertisement or otherwise, to persons who appear to be entitled to the benefit of the restriction.

(2) For the purpose of paragraph (1), the registrar may require the applicant to provide any documents or information which it is within his power to provide.

(3) The notices shall require persons claiming to be entitled to the benefit of the restriction, who object to the discharge or modification of it proposed by the application, or who claim compensation for such modification or discharge, to send to the registrar and to the applicant notice of any objections they may have and of the amount of compensation they claim (if any).

(4) The notices to be given under paragraph (1) shall be given by the applicant who shall certify in writing to the registrar that directions as to the giving of those notices have been complied with.

Notice of objection

15.—(1) A notice of objection to the application and a claim for compensation shall be in writing and shall be sent to the registrar and the applicant within 28 days from the publication of the notices referred to in rule 14.

(2) If the registrar requires, the person objecting shall submit a statement containing—

- (a) his name and address and if he is represented the name, address and profession of the representative;
- (b) the basis upon which he claims to be entitled to the benefit of the restriction;
- (c) any ground of objection; and
- (d) his signature or that of his representative and the date the statement was signed.

Suspension of proceedings

16. At any time after the registrar has received a notice of objection to the application the President or the Tribunal—

- (a) of his or its own motion may, or

(b) on the application of the applicant or of any person who has given a notice of objection, shall, suspend the proceedings for such time as he or it may consider appropriate to enable an application to be made to the High Court for the determination of a question arising under subsection (2) of section 84.

Order without hearing etc

17.—(1) If it appears to the President that, having regard to the applicant's interest in the land, the applicant is not a proper person to make the application, he may dismiss it and shall inform the applicant of his reasons for doing so.

(2) Where—

(a) the registrar receives no notice of objection within the time allowed by rule 15(1), or

(b) all objectors have withdrawn their objections before a hearing has taken place,

the President may, with the consent of the applicant, determine the application without a hearing.

(3) Where at or after a hearing—

(a) all objectors withdraw their objections, or

(b) the Tribunal directs that no objector shall be admitted to oppose the application,

the Tribunal may, with the consent of the applicant, determine the application without any further hearing.

Power to direct additional notices

18. If it appears to the Tribunal at any time before the determination of the application that any person who has not received notice of the application otherwise than by advertisement should have received specific notice, the Tribunal may require the applicant to give notice to that person and may adjourn the hearing to enable that person to make an objection or a claim for compensation.

Enquiries of local authorities

19. If before or at the hearing of an application the President or the Tribunal consider that enquiries should be made of any local authority within whose area the land affected by the restriction is situated, they may direct those enquiries to be made and may adjourn the case until the local authority has replied.

Provisions as to orders

20.—(1) Where the Tribunal orders the discharge or modification of a restriction subject to the payment of compensation, the discharge or modification shall not take effect until the registrar has endorsed on the order that the compensation has been paid.

(2) The Tribunal may direct that the compensation be paid within a specified time failing which the order shall cease to have effect.

(3) The Tribunal may direct that any compensation awarded shall be paid into the Court Funds Office of the Supreme Court.

Applications under section 2 of the Rights of Light Act 1959^[7]

Form of application

21.—(1) An application for a certificate of the Lands Tribunal under section 2 of the Rights of Light Act 1959 shall be in Form 1.

(2) An application under paragraph (1) shall be accompanied by two copies of the application which the applicant proposes to make to the local authority in whose area the dominant building is situated.

Publicity

22.—(1) Upon receipt of an application the registrar shall determine what notices are to be given, whether by advertisement or otherwise, to persons who appear to have an interest in the dominant building referred to in rule 21(2).

(2) For the purpose of paragraph (1), the registrar shall require the applicant to provide any documents or information which it is within his power to provide.

(3) The notices that the registrar determines shall be given under this rule shall be given by the applicant who shall notify the registrar in writing once this has been done setting out full particulars of the steps he has taken.

Issue of temporary certificate

23.—(1) Where the Tribunal is satisfied that exceptional urgency requires the immediate registration of a temporary notice in the register of local land charges, it shall issue a temporary certificate in Form 2.

(2) A temporary certificate shall not last longer than six months.

Issue of definitive certificates

24. The Tribunal shall issue a certificate in Form 3 or, where a temporary certificate has been issued under rule 23, in Form 4, once it is satisfied that the notices which the registrar has determined shall be given under rule 22 have been duly given.

PART VII

References by consent

Application of Part VII

25. This Part applies to proceedings before the Tribunal where it is acting as arbitrator under a reference by consent under section 1(5) of the Act.

Application of Arbitration Act 1950^[8]

26. In addition to the provisions set out in rule 32, the following provisions of the Arbitration Act 1950 shall apply to proceedings under this Part unless the contrary intention is expressed in the arbitration agreement—

- (a) section 1 (authority of arbitrators to be irrevocable);
- (b) section 2 (death of party);
- (c) section 3 (bankruptcy);
- (d) section 4(1) (staying court proceedings where there is a submission to arbitration);
- (e) section 5 (reference of interpleader issues to arbitration);
- (f) section 18(3) and (4) (costs);

- (g) section 24(2) and (3) (power of court to give relief where dispute involves questions of fraud); and
- (h) section 27 (power to extend time for commencing arbitration proceedings).

PART VIII

General Procedure

Determination of proceedings without a hearing

27.—(1) The Tribunal may, with the consent of the parties to the proceedings, order that the proceedings be determined without an oral hearing.

(2) Where the Tribunal makes an order under paragraph (1), any party to the proceedings may submit written representations to the Tribunal.

(3) On or after making an order under paragraph (1), the Tribunal shall give such directions relating to the lodging of documents and representations as it considers appropriate.

(4) Rule 42 shall apply to proceedings to which this rule applies as if references to the calling of witnesses and the hearing of evidence in that rule were references to representations.

(5) The Tribunal may at any time, on the application of a party to the proceedings or of its own motion, order that the proceedings should be heard and in that event may give directions for the disposal of the proceedings in accordance with these Rules.

Simplified procedure

28.—(1) A member or the registrar may, with the consent of the applicant or appellant or, in relation to proceedings under Part IV, the consent of the person who is claiming compensation, direct that proceedings shall be determined in accordance with this rule.

(2) The registrar shall send a copy of any direction made under paragraph (1) on all the parties to the proceedings and any party who objects to the direction may, within 7 days of service of the copy on him, send written notice of his objection to the registrar.

(3) Rule 38(6) to (9) and (11) shall apply as appropriate where an objection is received by the registrar under paragraph (2).

(4) Paragraphs (5) to (12) shall apply to proceedings in respect of which the registrar has made a direction under paragraph (1).

(5) Where the proceedings relate to an appeal under Part III, rule 8 shall not apply.

(6) The registrar shall—

(a) give directions concerning the filing and contents of a statement of claim by the applicant or appellant and a reply by the other parties to the proceedings; and

(b) give the parties not less than 21 days notice of the day fixed for the hearing of the proceedings.

(7) The following directions shall take effect—

(a) each party shall, not less than 14 days before the date fixed for the hearing, send to every other party copies of all documents in his possession on which he intends to rely at the hearing; and

(b) each party shall not less than 7 days before the date fixed for the hearing send to the registrar and to every other party a copy of any expert report on which he intends to rely at the hearing and a list of the witnesses whom he intends to call at the hearing.

(8) The registrar may from time to time, whether on application or of his own motion, amend or add to any direction issued if he thinks it necessary to do so in the circumstances of the case.

(9) The hearing shall be informal and shall take place before a single member of the Lands Tribunal who shall act as if he were an arbitrator and who shall adopt any procedure that he considers to be fair.

(10) Strict rules of evidence shall not apply to the hearing and evidence shall not be taken on oath unless the Tribunal orders otherwise.

(11) No award shall be made in relation to the costs of the proceedings except in cases to which section 4 of the 1961 Act apply, save that the Tribunal may make an award of costs

(a) in cases where an offer of settlement has been made by a party and the Tribunal considers it appropriate to have regard to the fact that such an offer has been made; or

(b) in cases in which the Tribunal regards the circumstances as exceptional, and if, exceptionally, an award of costs is made the amount shall not exceed that which would be allowed if the proceedings had been heard in a county court.

(12) The Tribunal may at any time, on the application of a party to the proceedings or of its own motion, order that this rule shall no longer apply to the proceedings and in that event may give directions for the disposal of the proceedings in accordance with these Rules.

Site inspections

29.—(1) Subject to paragraph (2), the Tribunal may enter and inspect—

(a) the land or property which is the subject of proceedings, and

(b) as far as is practicable, any comparable land or property to which the attention of the Tribunal is drawn.

(2) When the Tribunal intends to enter any premises in accordance with paragraph (1) it shall give notice to the parties who shall be entitled to be represented at the inspection; where the Tribunal deems it appropriate, such representation shall be

limited to one person to represent those parties having the same interest in the proceedings.

Consolidation of proceedings

30.—(1) Where two or more notices of appeal, references or applications have been made which—

- (a) are in respect of the same land or buildings; or
- (b) relate to different interests in the same land or buildings; or
- (c) raise the same issues;

the President or the Tribunal may, on his or its own motion or on the application of a party to the proceedings, order that the appeals, references or applications be consolidated or heard together.

(2) An order may be made with respect to some only of the matters to which the appeals, references or applications relate.

Power to select test case in appeals or references

31.—(1) Where the President is of the opinion that two or more appeals or references involve the same issues he may, with the written consent of all the parties to the appeals or references, select one or more appeal or reference to be heard in the first instance as a test case or test cases and the parties to each appeal or reference shall be bound by the decision of the Tribunal on that appeal or reference.

(2) Paragraph (1) is without prejudice to the right of the parties to each appeal or reference to require the Tribunal to state a case for the decision of the Court of Appeal.

Application of Arbitration Act 1950^[9]

32. The following provisions of the Arbitration Act 1950 shall apply to all proceedings as they apply to an arbitration—

- (a) section 12 (conduct of proceedings, witnesses etc.);
- (b) section 14 (interim awards);
- (c) section 17 (power to correct slips);
- (d) section 18(5) (application of section 73 of the Solicitors Act 1974^[10]);
- (e) section 19A^[11] (power of arbitrator to award interest);
- (f) section 20 (interest on awards), subject to any enactment that prescribes a rate of interest.

Evidence

33.—(1) Evidence before the Tribunal may be given orally and may be on oath or affirmation or, if the parties to the proceedings consent or the Tribunal or President so orders, by affidavit.

(2) Notwithstanding paragraph (1), the Tribunal may at any stage of the proceedings require the personal attendance of any deponent for examination or cross-examination.

(3) Paragraphs (2) to (7) of rule 38 shall apply to an application to the President for leave to give evidence by affidavit but as if for "registrar" in those paragraphs there were substituted "President".

(4) Nothing in the Civil Evidence Act 1972^[12], or in rules of court made under it, shall prevent expert evidence from being given before the Tribunal by any party even if no application has been made to the Tribunal for a direction as to the disclosure of that evidence to any other party to the proceedings.

Power to order discovery etc

34.—(1) The Tribunal, or subject to any directions given by the Tribunal, the registrar may, on the application of any party to the proceedings or of its or his own motion, order any party—

- (a) to deliver to the registrar any document or information which the Tribunal may require and which it is in the power of the party to deliver;
- (b) to afford to every other party to the proceedings an opportunity to inspect those documents (or copies of them) and to take copies;
- (c) to deliver to the registrar an affidavit or make a list stating whether any document or class of document specified or described in the order or application is, or has at any time been in his possession, custody or power and stating when he parted with it;
- (d) to deliver to the registrar a statement in the form of a pleading setting out further and better particulars of the grounds on which he intends to rely and any relevant facts or contentions;
- (e) to answer interrogatories on affidavit relating to any matter at issue between the applicant and the other party;
- (f) to deliver to the registrar a statement of agreed facts, facts in dispute and the issue or issues to be tried by the Tribunal; or
- (g) to deliver to the registrar witness statements or proofs of evidence.

(2) Where an order is made under paragraph (1) the Tribunal or registrar may give directions as to the time within which any document is to be sent to the registrar (being at least 14 days from the date of the direction) and the parties to whom copies of the document are to be sent.

(3) Rule 38 shall apply to this rule as appropriate both in relation to applications and where the registrar acts of his own motion.

Extension of time

35.—(1) The time appointed by or under these Rules for doing any act or taking any steps in connection with any proceedings may be extended on application to the registrar under rule 38.

(2) The registrar may extend the time limit on such terms as he thinks fit and may order an extension even if the application is not made until after the time limit has expired.

Appellant limited to grounds of appeal

36.—(1) On the hearing of an appeal under Part III or of an application under Part V, the appellant or applicant may rely only on the grounds stated in his notice of appeal, statement of case or application unless the Tribunal permits additional grounds to be put forward.

(2) If the Tribunal permits additional grounds to be put forward in accordance with paragraph (1) it may do so on such terms as to costs, adjournment or otherwise as it thinks fit.

Right of audience

37.—(1) Subject to paragraph (2), in any proceedings a party may appear in person or be represented by counsel or solicitor or by any other person with the leave of the Tribunal, or, in the case of an interlocutory application, the leave of the President or the registrar.

(2) Where a valuation officer is a party to proceedings, he may not appear in person except with the leave of the Tribunal or, in the case of an interlocutory application, the leave of the President or the registrar.

Interlocutory applications

38.—(1) Except where these Rules make other provision or the President otherwise orders, an application for directions of an interlocutory nature in connection with any proceedings shall be made to the registrar.

(2) The application shall be made in writing and shall state the title of the proceedings, and the grounds upon which the application is made.

(3) If the application is made with the consent of all parties, it shall be accompanied by consents signed by or on behalf of the parties.

(4) If the application is not made with the consent of every party the applicant shall serve a copy of the proposed application on every other party before it is made and the application shall state that this has been done.

(5) A party who objects to an application may, within 7 days of service of a copy on him, send written notice of his objection to the registrar.

(6) Before making an order on an application the registrar shall consider all the objections that he has received and may allow any party who wishes to appear before him the opportunity to do so.

(7) In dealing with an application the registrar shall have regard to the convenience of all the parties and the desirability of limiting so far as practicable the costs of the proceedings and shall inform the parties in writing of his decision.

(8) The registrar may refer the application to the President for a decision and he shall do so if requested by the applicant or a party objecting to the application.

(9) A party may appeal to the President from a decision of the registrar under this rule by giving written notice to the registrar within 7 days of service of the notice of decision or such further time as the registrar may allow.

(10) An appeal under paragraph (9) shall not act as a stay of proceedings unless the President so orders.

(11) Where an application under this rule is made—

(a) with respect to a case that has been included by the President in a class or group of cases under section 3(2) of the Act, or

(b) with respect to a case for which a member or members of the Lands Tribunal has or have been selected,

the powers and duties of the President under this rule may be exercised and discharged in relation to the application by any member or members of the Lands Tribunal authorised by the President for that purpose.

Pre-trial review

39.—(1) The Tribunal and, subject to any direction given by the Tribunal, the

registrar may, on the application of a party to the proceedings or of its or his own motion order a pre-trial review to be held and the registrar shall send to each party to the proceedings a notice informing him of the place and date of the pre-trial review.

(2) Unless the parties agree otherwise, the date of the pre-trial review shall be not less than 14 days from the making of the order that the pre-trial review should be held.

(3) The Tribunal or the registrar—

(a) shall at the pre-trial review give any direction that appears necessary or desirable for securing the just, expeditious and economical disposal of the proceedings; and

(b) shall at the pre-trial review endeavour to secure that the parties make all such admissions and agreements as ought reasonably to be made by them in relation to the proceedings;

(c) may record in the order made on the review any admission or agreement made under sub-paragraph (b) or any refusal to make any admission or agreement.

(4) Where a party seeks a specific direction he shall, so far as is practicable, apply for such direction at the pre-trial review and shall give the registrar and every other party notice of his intention to do so.

(5) If an application which might have been made at the pre-trial review is made subsequently the applicant shall pay the costs of and occasioned by the application unless the Tribunal considers that there was sufficient reason for the application not having been made at the review.

(6) Paragraphs (6) to (11) of rule 38 shall apply to a pre-trial review as if it were an interlocutory application.

(7) If any party does not appear at the pre-trial review the Tribunal or the registrar may, after giving the parties the opportunity to be heard, make such order as may be appropriate for the purpose of expediting or disposing of the proceedings.

Certificates of value

40. A party may apply in writing to the registrar for a certificate of value under section 35 of the 1961 Act and shall provide the registrar, at his request, with the information necessary to enable the certificate to be given.

Administration of oaths

41. The registrar and the Tribunal shall have power to administer oaths and take affirmations for the purpose of affidavits to be used in proceedings or for the purpose of the giving of oral evidence at hearings.

Expert witnesses

42.—(1) This rule applies to any proceedings except an application for a certificate under Part VI.

(2) Subject to paragraph (3), only one expert witness on either side shall be heard unless the Tribunal orders otherwise.

(3) Where the proceedings relate to mineral valuations or business disturbance, not more than two expert witnesses on either side shall be heard unless the Tribunal orders

otherwise.

(4) An application for leave to call more than the number of expert witnesses permitted by this rule may be made to the registrar in accordance with rule 38, or to the Tribunal at the hearing.

(5) A party shall, within 28 days of receiving a request from the registrar, send to him and to the other parties to the proceedings a copy of each of the following documents relating to the evidence to be given by each expert witness—

(a) the expert witness's report, including every plan and valuation of the land or property to which the proceedings relate (which shall include full particulars and computations in support of the valuation) which it is proposed to put in evidence; and

(b) either—

(i) full particulars of any comparable properties and transactions to which the party intends to refer at the hearing in support of his case and a statement of the purpose for which the comparison is made; or

(ii) a statement that no comparable properties or transactions will be referred to.

(6) If—

(a) an application for leave under paragraph (4) is made at the hearing and granted by the Tribunal; or

(b) at the hearing any party seeks to rely on documents not sent to the registrar or to the other parties in accordance with paragraph (5);

the Tribunal may adjourn the hearing on such terms as to costs or otherwise as it thinks fit.

Preliminary issues

43.—(1) The President or the Tribunal may, on the application of any party to proceedings, order any preliminary issue in the proceedings to be disposed of at a preliminary hearing.

(2) If in the opinion of the Tribunal the decision on the preliminary issue disposes of the proceedings, it may order that the preliminary hearing shall be treated as the hearing of the case or may make such other order as it thinks fit.

(3) Paragraphs (2) to (7) of rule 38 shall apply to an application under paragraph (1) above as if for "registrar" in those paragraphs there were substituted "President".

Sealed offers

44.—(1) Where any party unconditionally offers or is ready to accept, any sum as compensation or by way of price, or to agree a rent or a rateable value, a copy of the offer or indication of the readiness to accept enclosed in a sealed cover may be sent to the registrar or delivered to the Tribunal at the hearing by the party who made the offer or indicated the readiness to accept and shall be opened by the Tribunal after it has determined the proceedings.

(2) An offer or an indication of readiness to accept which is sent to the registrar or delivered to the Tribunal in accordance with paragraph (1), shall not be disclosed to the Tribunal until it has decided the amount of such sum, rent or rateable value.

Withdrawal or dismissal of appeal etc, before hearing

45.—(1) An appeal, reference or application may be withdrawn by sending to the registrar a written notice of withdrawal signed by all parties to the proceedings or by their representatives.

(2) A party may, at any time before the hearing of the proceedings, apply to the President for an order to dismiss the proceedings and the President may make such order as he thinks fit.

(3) Paragraphs (2) and (4) to (7) of rule 38 shall apply to an application under paragraph (2) as if for "registrar" there were substituted "President".

Failure to pursue proceedings or comply with Rules

46.—(1) If it appears to the Tribunal that any party to proceedings has failed to send a copy of any document to any other party or to the registrar as required by these Rules, it may—

- (a) direct that a copy be sent;
- (b) adjourn the further hearing of the proceedings; and
- (c) require the party at fault to pay any additional costs occasioned as a result of the failure.

(2) Where a party has failed to pursue any proceedings with due diligence or has failed to comply with any of the provisions of these Rules, the registrar, on the application of any party or of his own motion, after giving the parties an opportunity to be heard may make—

- (a) an order that the proceedings be heard by the Tribunal; or
- (b) an order that the proceedings be dismissed or that any party be debarred from taking any further part in the proceedings; or
- (c) such other order as may be appropriate for expediting or disposing of the proceedings including an order for costs.

(3) Paragraphs (9) and (10) of rule 38 shall apply to any order made by the registrar under paragraph (2).

Failure to comply with the Rules not to render proceedings invalid

47. Any failure by any person to comply with these Rules shall not render the proceedings or anything done in pursuance of them invalid unless the President or the Tribunal so directs.

Procedure at hearing

48. Subject to these Rules and to any direction by the President, the procedure at the hearing of any proceedings shall be such as the Tribunal may direct.

Default of appearance at hearing

49.—(1) If on an appeal under Part III or an application under Part V the appellant or applicant fails to attend or be represented at the hearing the Tribunal may dismiss the appeal or application.

(2) If any party to proceedings referred to in paragraph (1) other than the appellant or applicant, or any party to a reference under Part IV fails to attend or be represented at the hearing, the Tribunal may hear and determine the appeal, application or reference in his absence and may make such order as to costs as it thinks fit.

(3) Where proceedings have been dismissed or determined under this rule, the

Tribunal may, on the application of the party who has failed to attend within 7 days of the dismissal or determination, if it is satisfied that he had sufficient reason for his absence, set aside the dismissal or determination on such terms as to costs as it thinks fit.

Decision of Tribunal

50.—(1) Subject to paragraph (2), the decision of the Tribunal on an appeal, reference or application shall be given in writing, and shall state the reasons for the decision.

(2) The Tribunal may give its decision orally in cases where it is satisfied that this would not result in any injustice or inconvenience to the parties.

(3) The Tribunal may, and on the application of any party to the proceedings shall, issue an order incorporating its decision.

(4) Where an amount awarded or value determined by the Tribunal is dependent upon the decision of the Tribunal on a question of law which is in dispute in the proceedings, the Tribunal shall ascertain, and shall state in its decision, any alternative amount or value which it would have awarded or determined if it had come to a different decision on the point of law.

(5) The registrar shall send a copy of the decision or, where the decision is given orally an order stating its effect, to every party who has appeared before the Tribunal in the proceedings, and—

(a) in the case of an appeal against the decision of a valuation tribunal to the clerk of that tribunal and, if the appeal is a rating appeal, to the valuation officer;

(b) in the case of any other appeal under Part III, to the authority.

(6) If the Court of Appeal directs that any decision of the Tribunal, on which a case has been stated for the decision of the Court of Appeal, should be amended the registrar shall send copies of the amended decision to every person who was notified of the original decision.

Consent orders

51. Where the parties to proceedings have agreed the terms of an order to be made by the Tribunal, particulars of those terms signed by all the parties or by their representatives shall be sent to the registrar and an order may be made by the Tribunal in accordance with those terms in the absence of the parties.

Costs

52.—(1) Subject to the provisions of section 4 of the 1961 Act and of rule 28(11), the costs of and incidental to any proceedings shall be in the discretion of the Tribunal.

(2) The registrar may make an order as to costs in respect of any application or proceedings heard by him.

(3) A person dissatisfied with the order of the registrar under paragraph (2) may, within 10 days of the order, appeal to the President who may make such order as to the payment of costs, including the costs of the appeal, as he thinks fit.

(4) If the Tribunal directs that the costs of a party to the proceedings be paid by

another party it may settle the amount of costs by fixing a lump sum or direct that the costs be taxed by the registrar on such basis as the Tribunal thinks fit, being a basis that would be applied on a taxation of the costs of High Court or county court proceedings.

(5) A party dissatisfied with a taxation of costs under paragraph (4) may, within 7 days of the taxation, serve on any other interested party and on the registrar written objection specifying the items objected to and applying for the taxation to be reviewed in respect of those items.

(6) Upon such application the registrar shall review the taxation of the items objected to and shall state in writing the reasons for his decision.

(7) A person dissatisfied with the decision of the registrar under paragraph (6) may, within 10 days of the decision, apply to the President to review the taxation and the President may make such order as he thinks fit including an order as to payment of the costs of the review.

(8) Paragraphs (8) and (10) of rule 38 shall apply to any application under this rule.

Solicitor to be on the record

53.—(1) Where a solicitor commences or responds to proceedings on behalf of a party to those proceedings he shall be noted on the record of the Tribunal as acting for that party.

(2) A party who has previously carried on proceedings in person may appoint a solicitor at any time to act on his behalf and if he does so shall notify the Tribunal who shall note on the record that the solicitor is acting for that party.

(3) A party who has previously been represented by a solicitor may change his solicitor at any time, or may decide to continue the proceedings in person but unless such change or decision is notified to the Tribunal the former solicitor shall be considered the representative of the party until the conclusion of the proceedings.

(4) The notifications referred to in paragraphs (2) and (3) may be given by the party or his solicitor and the person giving the notification shall send a copy to every other party to the proceedings.

(5) A solicitor who is on the record of the Tribunal as acting for a party shall be responsible for the payment of all fees of the Tribunal which are the responsibility of that party whilst he remains on the record.

Service of notices

54.—(1) Every party to proceedings shall notify the registrar of an address for service of documents on him.

(2) Where a party to proceedings is represented by a person other than a solicitor he shall—

(a) send to the registrar written authority for that representative to act on his behalf; and

(b) notify the registrar if the representative ceases to act on his behalf and, if replaced, shall give the registrar details of the new representative together with the written authority for the new representative to act on his behalf.

(3) Any document to be served on any person under these Rules shall be deemed to have been served if sent by pre-paid post to that person at his address for service.

(4) Any document to be sent to the registrar under these Rules shall be sent to him at the office.

(5) Any application or communication to be made to the President or to any member of the Lands Tribunal in respect of any case shall be addressed to the registrar at the office.

Change of address

55. A party to any proceedings may at any time by notice in writing to the registrar and to every other party to the proceedings change his address for service under these Rules.

Substituted service

56. If any person to whom any notice or other document is required to be sent under these Rules—

- (a) cannot be found after all diligent enquiries have been made;
- (b) has died and has no personal representative; or
- (c) is out of the United Kingdom;

or for any other reason service upon him cannot readily be effected in accordance with these Rules, the President or the Tribunal may dispense with service upon that person or make an order for substituted service in such other form (whether by advertisement in a newspaper or otherwise) as the President or Tribunal may think fit.

PART IX

Transitional provisions

Transitional provisions, repeals etc

57.—(1) The Rules shall apply to proceedings commenced before the date on which they come into force as well as to proceedings commenced on or after that date.

(2) The Rules set out in Schedule 2 are hereby revoked.

Mackay of Clashfern, C.

Dated 27th March 1996

Rule 2.

Form 1

Rule 21.

Application for Certificate under section 2 of the Rights of Light Act 1959

To:—The Registrar, Lands Tribunal.

Strike out words not applicable

I/We.....

of.....

being [owner(s)] [tenant(s) for a term of years certain expiring in 19]

[mortgagee(s) in possession] of (*here describe the servient land*)apply to the Lands Tribunal for the issue of a certificate that adequate publicity has been given to my/our proposed application for the registration in the register of local land charges of the..... Council of a notice under section 2 of the Rights of Light Act 1959.

I/We attach two copies of the proposed application.

Application for temporary certificate. Strike out if not applicable.

[I/We also apply for the issue of a certificate authorising the registration forthwith of the proposed notice as a temporary notice. The case is one of exceptional urgency because (*here insert reasons*).....].

To the best of my/our knowledge persons likely to be affected by the registration of the notice are (*here insert names and addresses of all persons in occupation of the dominant building or having a proprietary interest in it*).....

All communications regarding this application should be addressed to me/us at the address shown above [*or to my/our solicitor/agent..... of.....*].

Dated.....

Signed.....

Form 2

Rule 23.

Temporary Certificate for Registration of a Notice under section 2 of the Rights of Light Act 1959

I hereby certify that for reasons of exceptional urgency a temporary notice may be registered by (*name of applicant*).....forthwith against the building specified in the attached Form of Application for the registration of a notice under section 2 of the Rights of Light Act 1959.

A notice registered under the said application shall not have effect after the effluxion ofmonths from the date of registration unless before the expiration of that period a further certificate of this Tribunal has been lodged with the registering authority stating that due publicity has been given to the proposed registration.

Dated.....

Signed.....

Registrar

Lands Tribunal

Form 3

Rule 24.

Certificate for Registration of a Notice under section 2 of the Rights of Light Act 1959

I certify that adequate notice of the proposed application by (*name of applicant*)<.....a copy of which is attached to this certificate, to register a notice under section 2 of the Rights of Light Act 1959 against (*description of dominant building as specified in the application*).....has been given to all persons who, in the circumstances existing at the present time, appear to the Lands Tribunal to be persons likely to be affected by the registration of such a notice.

Dated.....

Signed.....

Registrar

Lands Tribunal

Form 4

Rule 24.

Certificate for Registration of a Notice under section 2 of the Rights of Light Act 1959 following Registration of a Temporary Notice

I certify that adequate notice of the proposed application by (*name of applicant*).....to register a notice under section 2 of the Rights of Light Act 1959 against(*description of dominant building as specified in the application*).....has been given to all persons who, in the circumstances existing at the present time, appear to the Lands Tribunal to be persons likely to be affected by the registration of such a notice.

A temporary certificate authorising the registration of a temporary notice was issued by the Lands Tribunal on.....19.....

Dated.....

Signed.....

Registrar

Lands Tribunal

SCHEDULE 2
REVOCATIONS

(1)	(2)
Rules revoked	References
The Lands Tribunal Rules 1975	S.I. 1975/299
The Lands Tribunal (Amendment) Rules 1977	S.I. 1977/1820
The Lands Tribunal (Amendment) Rules 1981	S.I. 1981/105
The Lands Tribunal (Amendment No. 2) Rules 1981	S.I. 1981/600
The Lands Tribunal (Amendment) Rules 1984	S.I. 1984/793
The Lands Tribunal (Amendment) Rules 1986	S.I. 1986/1322
The Lands Tribunal (Amendment) Rules 1990	S.I. <u>1990/1382</u>

Notes:

[1] 1949 c. 42; section 3 was amended by the Land Compensation Act 1961 (c. 33), Schedule 5; by the Local Government, Planning and Land Act 1980 (c. 65), Schedule 33, paragraph 3 and by the Tribunals and Inquiries Act 1992, section 18. Schedule 5 of the Land Compensation Act 1961 was repealed by Part XI of the Schedule to the Statute Law (Repeals) Act 1974 (c. 22). [back](#)

[2] 1925 c. 20; section 84(3A) was inserted by the Law of Property Act 1969 (c. 59), section 28(6). [back](#)

[3] [1992 c. 53. back](#)

[4] 1961 c. 33. [back](#)

[5] [1988 c. 14](#); section 61 was amended by the Local Government Finance Act [1992 \(c. 14\)](#) Schedule 13, paragraph 69. [back](#)

[6] 1925 c. 20. [back](#)

[7] 1959 c. 56. [back](#)

[8] 1950 c. 27. [back](#)

[9] 1950 c. 27. [back](#)

[10] 1974 c. 47. [back](#)

[11] section 19A was inserted by the Administration of Justice Act 1982, Schedule 1, Part IV. [back](#)

[12] 1972 c. 30. [back](#)

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for the procedure to be followed in respect of cases before the Lands Tribunal. They replace the Lands Tribunal Rules 1975. The Rules consolidate the procedure in relation to appeals. They no longer provided for prescribed forms to be used except in relation to applications under section 2 of the Right of Light Act 1959. The main changes to the general procedure of the Tribunal are—

- (a) A simplification of the procedure for the determination of proceedings without a hearing;
- (b) A new simplified procedure is introduced for appropriate cases;
- (c) Section 19A of the Arbitration Act 1950 is applied to proceedings allowing the Tribunal to award interest on compensation;
- (d) The Tribunal's powers of sanction in the event of failure to pursue proceedings diligently or comply with the Rules are strengthened; and
- (e) Provision is made for solicitors to formally be placed on the record when acting for a party to proceedings with responsibility to the Tribunal for fees.