

TENTH SCHEDULE

Section 57.

CONSTITUTION, POWERS AND PROCEEDINGS OF THE TRANSPORT TRIBUNAL

*Constitution*

- 1 The Transport Tribunal shall be a court of record and have an official seal which shall be judicially noticed.
- 2 (1) The tribunal shall consist of a president who shall be an experienced lawyer and four other members of whom two shall be persons of experience in transport business, one a person of experience in commercial affairs and one a person of experience in financial matters or economics.
- (2) The president shall direct, either generally or for the purpose of a particular case, which of the members qualified as having experience in transport business is to serve in the London Fares and Miscellaneous Charges Division and the Road Haulage Appeals Division respectively.
- 3 The members of the tribunal shall be appointed by Her Majesty on the joint recommendation of the Lord Chancellor and the Minister.

*Tenure of office*

- 4 (1) The president shall hold office during good behaviour, but shall vacate office at the end of the completed year of service in the course of which he attains the age of seventy-two years:
- Provided that—
- (a) where the Lord Chancellor and the Minister concur in considering it desirable in the public interest to retain the president in his office after he attains that age, they may, with the approval of the Treasury, authorise his continuance in office up to such greater age not exceeding seventy-five years as they think fit; and
- (b) the power of Her Majesty to remove the president from his office on account of misbehaviour shall be exercisable on the joint recommendation of the two persons aforesaid ; and Her Majesty, on a like recommendation, shall have power to remove him from his office on account of inability to perform the duties thereof.
- (2) The other members of the tribunal shall hold office for such term not exceeding seven years from the date of their appointment as may be determined at the time of appointment and then retire, but a retiring member shall be eligible for re-appointment.
- (3) A person shall not be appointed under the last foregoing sub-paragraph for a term extending beyond the end of the completed year of service in the course of which he attains the age of seventy years, except that, where the Lord Chancellor and the Minister concur in considering it to be desirable in the public interest that a person should be appointed for a term extending beyond that date, that person may, with the approval of the Treasury, be appointed for such term not extending beyond the date on which he attains the age of seventy-five years, as the Lord Chancellor and the Minister think fit.

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*Status: This is the original version (as it was originally enacted).*

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*Vacancies and temporary absence*

- 5 (1) The tribunal may act notwithstanding any vacancy, but if a vacancy occurs among the members of the tribunal or if any member is unable to attend because of illness or for any other cause, then pending the filling up of such vacancy or during such absence—
- (a) in the case of the president, the Lord Chancellor may appoint a person to act in his place ; and
  - (b) in the case of any other member, the Minister may appoint a person of the like qualifications to act in his place.
- (2) A person shall not be appointed to act under paragraph (a) of the last foregoing sub-paragraph after he attains the age of seventy-two years, or under paragraph (b) of that sub-paragraph after he attains the age of seventy years, except where the Lord Chancellor or the Minister, as the case may be, think it desirable in the public interest, but no person shall be appointed to act after he attains the age of seventy-five years.
- (3) Any person appointed under this paragraph shall, for the purposes of any proceedings in respect of which he may be so appointed, be a member of the tribunal and shall, subject to the provisions of this Act and to the rules made thereunder, exercise all the powers and functions of a member of the tribunal.
- (4) Any person appointed under this paragraph in place of a member of the Road Haulage Appeals Division shall be regarded as a member of that Division for the purposes of subsection (5) of section fifty-seven of this Act.

*The special panel*

- 6 (1) For the purposes of the tribunal's jurisdiction under Part IV of the Road Traffic Act, 1960, there shall be a special panel consisting of such number of persons nominated by the Lord Chancellor, such number of persons nominated by the Secretary of State and such number of persons nominated by the Minister, as the Minister may direct.
- (2) A member of the special panel shall hold office for such term, not exceeding three years from the date of his appointment, as may be determined at the time of the appointment, and then retire, but shall be eligible for re-appointment.
- (3) A person shall not be appointed under this paragraph for a term extending beyond the end of the completed year of service in the course of which he attains the age of seventy years, except that where the Lord Chancellor, the Secretary of State or the Minister, as the case may be, consider it to be desirable in the public interest that a person should be appointed for a term extending beyond that date, that person may, with the approval of the Treasury, be appointed for such term not extending beyond the date on which he attains the age of seventy-five years, as the Lord Chancellor, the Secretary of State or the Minister, as the case may be, thinks fit.
- (4) Sub-paragraph (3) of the last foregoing paragraph shall apply in relation to a person appointed under this paragraph as it applies in relation to a person appointed under that paragraph.

*Officers and servants*

- 7 The tribunal may appoint a clerk and such other officers and servants (subject to the consent of the Treasury as to number) as they may consider necessary for assisting them in the proper execution of their duties.

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### *Remuneration and expenses*

- 8 (1) There shall be paid to the members of the tribunal, to any person appointed under paragraph 5 of this Schedule, to any person appointed from the special panel and to the clerk, officers and servants of the tribunal such remuneration (including, in the case of the clerk, officers and servants, superannuation allowances or gratuities on retirement) as the Minister, with the approval of the Treasury, may determine, and for the reference in Part I of the Schedule to the Superannuation (Various Services) Act, 1938, to subsection (1) of section twenty-one of the Railways Act, 1921, there shall be substituted a reference to this paragraph.
- (2) There may be granted to the president such a superannuation allowance as may under subsection (1) of section one hundred and twenty-eight of the Supreme Court of Judicature (Consolidation) Act, 1925, be granted to a person holding one of the offices specified in Part I of the Third Schedule to that Act.
- (3) For the purpose of computing a superannuation allowance granted to the president account shall be taken of any service which is relevant service within the meaning of the Administration of Justice (Pensions) Act, 1950, in any office other than that of president, as well as of service as president, but not of any other service.
- (4) Any such superannuation allowance shall be defrayed as part of the expenses of the tribunal except that if, in computing the superannuation allowance, account is taken under the last foregoing sub-paragraph of any service in an office other than that of president of the tribunal, the allowance shall be defrayed only as to a proportion as part of the expenses of the tribunal, and as to the balance out of money provided by Parliament; and the said proportion shall be determined by the Treasury, regard being had to the relevant length of service and rate of remuneration in the relevant offices.
- (5) In subsection (4) of section twenty-one of the Administration of Justice (Pensions) Act, 1950 (which relates to benefits under that Act payable in respect of a president of the tribunal), the reference to the foregoing provisions of that section shall include a reference to this paragraph, and in paragraph 4 of the Third Schedule to that Act, for the reference to subsection (2) of section three of the Chairmen of Traffic Commissioners &c. (Tenure of Office) Act, 1937, there shall be substituted a reference to this paragraph.
- 9 Any remuneration payable under the last foregoing paragraph and any other expenses of the tribunal shall be paid by the Minister out of money provided by Parliament, but any such expenses except so far as—
- (a) they are met out of the payment of fees, and
  - (b) they may be apportioned by the tribunal to the exercise of the tribunal's jurisdiction under Part IV of the Road Traffic Act, 1960,
- shall be repaid on demand to the Minister by the Commission or, after the vesting date, by the Railways Board and the London Board in such proportions as they may agree or as the Minister may in default of agreement determine.

### *Powers and proceedings*

- 10 (1) The tribunal shall, for the purposes of the exercise of any of their functions, have full jurisdiction to hear and determine all matters whether of law or of fact, and shall, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of their orders, the entry on and inspection of property and other matters necessary or proper for the due exercise of their jurisdiction, have, in England, all such powers, rights and privileges as are vested in the High Court,

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and, in Scotland, all such powers, rights and privileges as are vested in the Court of Session.

- (2) Execution may be had in England of any order of the tribunal as if it were an order of the High Court, and any order of the tribunal may be recorded for execution in the books of council and session in Scotland, and shall be enforceable accordingly.
- 11 (1) The tribunal may, from time to time, with the approval of the Lord Chancellor, the Secretary of State and the Minister, make general rules governing their procedure and practice and generally for carrying into effect their duties and powers, and such rules may, among other things, provide for—
- (a) the awarding of costs by the tribunal ;
  - (b) the reference of any question to a member or officer of the tribunal, or any other person appointed by them, for report after holding a local inquiry ;
  - (c) the review by the tribunal of decisions previously given by them ;
  - (d) the number of members of the tribunal to constitute a quorum (including the quorum of either Division of the tribunal);
  - (e) enabling the tribunal to dispose of any proceedings notwithstanding that in the course of those proceedings there has been a change in the persons sitting as members of the tribunal;
  - (f) the right of audience before the tribunal ;
- and may, subject to the consent of the Treasury, prescribe the scale of fees for and in connection with the proceedings before the tribunal.
- (2) Any rules under subsection (1) of section twenty-two of the Railways Act, 1921 (which is replaced by this paragraph), which are in operation immediately before this Schedule comes into force shall have effect as if /they were made under .this paragraph.
- 12 (1) The Minister shall give to the tribunal such assistance as the tribunal may require.
- (2) The Minister shall place at the disposal of the tribunal any information in his possession which he considers will be of assistance to the tribunal in connection with any matter before them, and shall be entitled to appear and be heard in any proceedings before the tribunal.
- 13 Subject to this Act and to any rules made thereunder, the tribunal may hold sittings in any part of Great Britain in such place or places as may be convenient for the determination of the proceedings before them.
- The central office of the tribunal shall be in London.
- 14 The decisions of the tribunal shall be by a majority of the members sitting.

#### *Appeals*

- 15 (1) An appeal shall lie, in accordance with rules made by the tribunal, from the tribunal to the Court of Appeal or to the Court of Session:
- Provided that no appeal shall lie from the tribunal upon a question of fact or locus standi.
- (2) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the Court of Appeal or the Court of Session as the case may be.

(3) On the hearing of an appeal the Court of Appeal and the Court of Session may draw all such inferences as are not inconsistent with the facts expressly found and are necessary for determining the question of law, and may make any order which the tribunal could have made, and also any such further or other order as may be just; and the costs of and incidental to an appeal shall be at the discretion of the Court but neither the tribunal nor any member of the tribunal shall be liable to any costs by reason or in respect of any appeal.

(4) The decision of the Court of Appeal or the Court of Session, as the case may be, shall be final:

Provided that where there has been a difference of opinion between those Courts, either of those Courts in which a matter affected by such a difference of opinion is pending may give leave to appeal to the House of Lords on such terms as to costs as that Court shall determine.

*Annual report*

16 The tribunal shall annually make a report to the Minister of all their proceedings, and the report shall be laid before Parliament.