



# Transport Act 1985

## 1985 CHAPTER 67

### PART II

#### REGULATION OF ROAD PASSENGER TRANSPORT IN LONDON

##### *Supplementary provisions*

#### **42 Appeals to the Secretary of State.**

- (1) A person who has applied for the grant of a London local service licence may appeal to the Secretary of State against any decision of the metropolitan traffic commissioner—
  - (a) to refuse to grant the licence in accordance with the application; or
  - (b) to attach any condition to the licence otherwise than in accordance with the application.
- (2) Where a person who has applied for a new London local service licence in substitution for a licence held by him and in force at the date of his application appeals to the Secretary of State under subsection (1) above against any such decision as is mentioned in paragraph (a) or (b) of that subsection, the existing licence shall continue in force until the appeal is disposed of, but without prejudice to the exercise in the meantime of the powers conferred by section 40 of this Act.
- (3) The holder of a London local service licence may appeal to the Secretary of State against any decision of the metropolitan traffic commissioner—
  - (a) to refuse an application by the holder for the variation or removal of any condition attached to the licence;
  - (b) to vary any such condition, or to attach any new condition to the licence, otherwise than on an application by the holder; or
  - (c) to revoke or suspend the licence.
- (4) Where the commissioner makes any such decision with respect to a licence as is mentioned in subsection (3)(b) or (c) above he may, if the holder of the licence so requests, direct that his decision shall not have effect until the expiration of the period

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within which an appeal against it may be made to the Secretary of State under that subsection and, if such an appeal is made, until the appeal is disposed of.

- (5) If the commissioner refuses to give a direction under subsection (4) above, the holder of the licence may apply to the Secretary of State for such a direction, and the Secretary of State shall give his decision on the application within fourteen days.
- (6) A person who has applied for the grant of a London local service licence, or for the variation or removal of any conditions attached to such a licence, shall, if the metropolitan traffic commissioner fails to come to a decision on the application within a reasonable time, have the same right to appeal to the Secretary of State as if the commissioner had decided to refuse the application.
- (7) A person other than the applicant for, or holder of, a London local service licence may, if he has standing in the matter in accordance with the following provisions of this section, appeal to the Secretary of State against any decision of the metropolitan traffic commissioner with respect to—
  - (a) the grant, revocation or suspension of a London local service licence; or
  - (b) the attachment of any condition to a London local service licence or the variation or removal of any condition attached to such a licence.
- (8) Subject to subsection (9) below, the persons having standing to appeal under subsection (7) above against a decision of the metropolitan traffic commissioner with respect to a London local service licence are—
  - (a) any local authority affected; and
  - (b) any person providing transport facilities along or near the route, or part of the route, of the service which is being or is to be provided under the licence;
 being a local authority or person who has made objections or other representations to the commissioner in the course of the proceedings resulting in that decision.
- (9) Subsection (8)(b) above shall not apply in the case of any decision of the metropolitan traffic commissioner on an application to which section 39 of this Act applies or with respect to a London local service licence granted in pursuance of that section.
- (10) An appeal under this section must be made within the prescribed time and in the prescribed manner; and provision may be made by regulations as to the procedure to be followed in connection with appeals under this section.
- (11) On any appeal under this section the Secretary of State may, if he thinks fit, remit the matter to the metropolitan traffic commissioner for rehearing and determination by him; and, if he does so, he may give to the commissioner such directions as he thinks fit with respect to the consideration to be given to any circumstances of the case.
- (12) On the determination of an appeal under this section the Secretary of State may confirm, vary or reverse the decision appealed against, and may give such directions as he thinks fit to the metropolitan traffic commissioner for giving effect to his decision.

#### **43 Further appeals on points of law.**

- (1) An appeal lies to the High Court at the instance of any of the persons mentioned in subsection (2) below on any point of law arising from a decision of the Secretary of State on an appeal from a decision of the metropolitan traffic commissioner.
- (2) The persons who may appeal against any such decision of the Secretary of State are—
  - (a) the person who appealed to the Secretary of State;

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- (b) any person who had a right to appeal to the Secretary of State against the relevant decision of the commissioner but did not exercise that right;
  - (c) any person who would have had a right of appeal to the Secretary of State against the relevant decision of the commissioner if aggrieved by that decision and who is aggrieved by the decision of the Secretary of State on the appeal; and
  - (d) the metropolitan traffic commissioner.
- (3) If on an appeal under this section the High Court is of opinion that the decision appealed against was erroneous in point of law, it shall remit the matter to the Secretary of State with the opinion of the court for rehearing and determination by him.
- (4) No appeal to the Court of Appeal may be brought from a decision of the High Court under this section except with the leave of the High Court or the Court of Appeal.

#### **44 Application of provisions of the 1981 Act.**

- (1) The provision of the 1981 Act mentioned in subsection (2) below shall apply in relation to the grant of London local service licences, or to London local service licences granted, under this Part of this Act, as they apply in relation to the grant of PSV operators' licences, or to PSV operators' licences granted, under that Act.
- (2) Those provisions are—
- section 57 (death, bankruptcy, etc., of licence holder);
  - section 58(2) (grant of licences to unincorporated body or to persons jointly); and
  - section 59 (regulations with respect to procedure on applications for licences).
- (3) Section 84 of that Act (which relates to the effect of that Act in relation to general public interests) shall have effect as if the provisions of this Part of this Act were contained in that Act.

#### **45 Interpretation of Part II.**

- (1) In this Part of this Act—
- “commissioner of police” means—
    - (a) in relation to the metropolitan police district, the Commissioner of Police of the Metropolis; and
    - (b) in relation to the City of London, the Commissioner of Police for the City of London;
  - “the Common Council” means the Common Council of the City of London;
  - “bus service” and “London bus service” have the meanings given by section 34(2) of this Act; and
  - “metropolitan traffic commissioner” shall be read in accordance with section 35(3) of this Act.
- (2) Subject to subsection (3) below, for the purposes of—
- (a) section 37(4) of this Act; and
  - (b) section 42(8)(a) of this Act;
- the local authorities affected are any of the following councils, that is to say, the councils of the London boroughs and the Common Council, in whose area the service, or any part of the service, is being or (as the case may be) is to be provided under the licence in question.

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(3) For the purposes of—

- (a) section 39(7) of this Act; and
- (b) section 42(8)(a) of this Act as it applies in a case within subsection (9) of that section;

the local authorities affected are any of the councils mentioned in subsection (2) above in whose area there is situated any stopping place for the proposed service or (as the case may be) for the service which is being provided under the licence in question.

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