
STATUTORY INSTRUMENTS

1986 No. 77

The Travel Concession Schemes Regulations 1986

PART V

APPLICATIONS TO THE SECRETARY OF STATE

Application

38. Regulations 39 to 48 apply to applications to the Secretary of State under sections 98(2) (for cancellation or variation of a participation notice) and 99(2) (for release from an obligation to provide travel concessions) of the Act.

Written statements

39.—(1) The applicant shall, with the notice required to be given under section 98(3) or (as the case may be) section 99(2) of the Act, submit to the Secretary of State a written statement of—

- (a) the grounds for the application; and
- (b) any reasons or other matters which that person considers to be relevant to the application.

(2) The applicant shall, at the same time as he submits the above-mentioned notice and statement to the Secretary of State, send a copy of that notice and of that statement to the authority.

40.—(1) Subject to regulation 46, the authority shall submit to the Secretary of State a written statement of any matters which they consider to be relevant to the application.

(2) At the same time as they submit that statement to the Secretary of State, the authority shall send a copy of it to the applicant.

(3) Unless otherwise allowed by the Secretary of State, any such statement shall be submitted to the Secretary of State and sent to the applicant within 28 days of the date of the notice given to the Secretary of State by the applicant.

(4) The Secretary of State shall inform the applicant forthwith if he allows the authority a longer period for the submission of their statement.

41.—(1) Subject to regulation 46, the Secretary of State may, after the authority have submitted their statement, request the applicant or the authority, or both of them, to submit to him such further written statements and documents as he may direct.

(2) Any such further statements and documents shall be submitted within such time as the Secretary of State may direct, but such time shall not, unless the applicant and the authority otherwise agree, be less than 14 days commencing with the date of the Secretary of State's request.

(3) The applicant or the authority (as the case may be) submitting any further statement or document to the Secretary of State shall at the same time send a copy of it to (as appropriate) the authority or the applicant.

Hearings and procedure

42.—(1) The Secretary of State may, after the submission of the last written statement or document required under regulations 39 to 41, invite the applicant or the authority to appear before him.

(2) When the Secretary of State invites the applicant or the authority to appear before him, he shall also invite the other to be present.

(3) The hearing pursuant to an invitation from the Secretary of State under this regulation shall take place not less than 14 days after the date of that invitation (or, if invitations were given on separate dates, the date of the second or last of those invitations).

(4) The applicant may appear in person or be represented by counsel, solicitor or any other person.

- (a) (5) (a) Where the authority are a local authority, that authority may appear by any officer appointed for that purpose, or by counsel, or by solicitor, or by any other person;
- (b) Where the authority are a Passenger Transport Executive they may appear by counsel, or by solicitor, or by any officer or employee of the Executive, or other person appointed for that purpose; and
- (c) where the authority are both a local authority and a Passenger Transport Executive, they may appear by any officer of the local authority appointed for the purpose, or by any officer or employee of the Executive, or by counsel, or by solicitor or any other person appointed for that purpose.

43. If the applicant or the authority fails—

- (a) to deliver any statement or document within the time specified in these Regulations or directed by the Secretary of State; or
- (b) to appear before him in response to an invitation from the Secretary of State;

the Secretary of State may nevertheless proceed with the determination of the application.

44.—(1) Subject to regulation 43, at any hearing the Secretary of State shall give to the applicant and the authority an opportunity—

- (a) to address him and to amplify the written statement submitted under this Part of these Regulations, to give evidence, to call witnesses, and to put questions to any person giving evidence before him; and
- (b) to make representations on the evidence (if any) and on the subject matter of the application generally but, where evidence is taken, such opportunity shall not be given before the completion of the taking of the evidence.

(2) The Secretary of State may receive in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law.

(3) Except as otherwise provided in this Part of these Regulations, the procedure at any hearing shall be such as the Secretary of State shall in his discretion determine.

45.—(1) The decision of the Secretary of State shall be recorded in a document signed by or on behalf of the Secretary of State and dated when so signed.

(2) Such document shall contain a summary of the reasons for the decision of the Secretary of State.

(3) A copy of the document recording the decision of the Secretary of State shall be sent to the applicant and the authority.

(4) Except where a decision has been announced at the conclusion of a hearing, the decision shall be treated as having been made on the date on which the copy of the above-mentioned document is sent to the applicant.

46.—(1) This regulation applies to information relating to the reimbursement of a relevant operator and received by an authority from that operator pursuant to reimbursement arrangements.

(2) In this regulation “relevant operator” means an operator of public passenger transport services participating in any scheme established by the authority.

(3) Notwithstanding any provision of regulations 40 to 44, any statement or document submitted or sent by an authority, and any statement made on behalf of an authority appearing before the Secretary of State, shall not contain any information to which this regulation applies unless the relevant operator has given his consent in writing to such inclusion.

47. When he determines an application, the Secretary of State may, after giving them an opportunity to make representations, require the applicant or the authority, or both of them, to pay such a sum as he may determine towards the expenses incurred by him in connection with the determination of the application.

48.—(1) If the Secretary of State appoints a person to determine an application on his behalf, he shall give notice in writing of the appointment to the applicant and the authority.

(2) If the Secretary of State appoints a person to determine an application on his behalf, references in regulations 39 to 46 to the Secretary of State shall be read, with effect from the date of the appointment, as references to the person so appointed.