

SCHEDULE 4

Regulation 20

INQUIRIES

Notification of an inquiry

1.—(1) The traffic commissioner shall send to every person entitled to appear in accordance with paragraph 3 of this Schedule at an inquiry written notice of the date, time and place fixed for the holding of the inquiry.

Such notice shall be sent at least 21 days before the date so fixed.

(2) The traffic commissioner may vary the date, time or place for the holding of the inquiry; and when he varies the date he shall send to every person so entitled to appear at the inquiry, written notice of the date, time and place of the holding of the inquiry as varied.

Such notice shall be sent at least 21 days before the date as varied.

(3) The periods referred to in sub-paragraph (1) and (2) may be abridged with the consent of every person so entitled to appear at the inquiry.

(4) Where the traffic commissioner varies the time or place for the holding of an inquiry without varying the date, he shall give such notice of the variation as appears to him to be reasonable.

(5) Nothing in this paragraph shall authorise the traffic commissioner to hold an inquiry before the date published in Applications and Decisions pursuant to regulation 21.

(6) The foregoing provisions of this paragraph shall apply to an adjourned inquiry save that—

- (a) if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice of that date, time and place shall be required; and
- (b) sub-paragraphs (1) and (2) shall have effect in relation to an adjourned inquiry as if for “21 days” there were substituted “7 days”.

Admission to an inquiry

2.—(1) Subject to the provisions of this paragraph, an inquiry shall be held in public.

(2) The traffic commissioner may direct that the whole or any part of an inquiry be held in private if he is satisfied that by reason of—

- (a) the likelihood of disclosure of intimate personal or financial circumstances;
- (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- (c) exceptional circumstances not falling within sub-paragraphs (a) or (b),

it is just and reasonable for him so to do.

(3) Where the hearing is in private the traffic commissioner may admit such persons as he considers appropriate.

(4) Without prejudice to sub-paragraph (2), where any question relating to the appropriate financial resources of any persons is to be or is being considered during an inquiry, the traffic commissioner may exclude such persons as he thinks fit from the part of the inquiry during which that question is considered.

(5) Notwithstanding the foregoing provisions of this paragraph, a member of the Council on Tribunals or the Scottish Committee of that Council may be present in his capacity as such notwithstanding that the inquiry, or part of an inquiry is not in public and such a person shall not be excluded under sub-paragraph (4).

Appearances at an inquiry

3.—(1) The following persons shall be entitled to appear at an inquiry relating to an application namely—

- (a) the applicant;
- (b) a person who has duly made an objection to the application; and
- (c) a person who has duly made representations in respect of the application.

(2) Where a traffic commissioner holds an inquiry with a view to exercising his powers under section 26 or 30, in respect of a licence, the licence-holder shall be entitled to appear at the inquiry.

(3) Without prejudice to sub-paragraph (2), where a person has requested an inquiry under section 29(1), that person shall be entitled to appear at any inquiry held at his request.

(4) If, in relation to any proceedings,

- (a) a transport manager has been given notice under paragraph 15 of Schedule 3 to the 1995 Act that an issue in the proceedings is whether he is of good repute or professionally competent;
- (b) the transport manager has duly made a representation under that paragraph; and
- (c) the issue is to be considered at an inquiry,

the transport manager shall be entitled to appear at the inquiry.

(5) Any other person may appear at an inquiry at the discretion of the traffic commissioner.

(6) Any person entitled or permitted to appear at an inquiry may do so on his own behalf or be represented by counsel, solicitor or, at the discretion of the traffic commissioner, by any other person.

Inquiries relating to more than one application

4. Without prejudice to section 35(2), where a traffic commissioner decides that two or more applications should be the subject of an inquiry, he may hold a single inquiry in relation to those applications if it appears to him that it would be just and convenient so to do.

Procedure at inquiry

5.—(1) Except as otherwise provided in this Schedule, the traffic commissioner shall determine the procedure at an inquiry.

(2) Subject to sub-paragraph (5), a person entitled to appear at an inquiry in accordance with paragraph 3 of this Schedule shall be entitled to give evidence, call witnesses, to cross examine witnesses and to address the traffic commissioner both on the evidence and generally on the subject matter of the proceedings.

(3) The giving of evidence, the calling of witnesses, the cross examination of witnesses and the making of such addresses by other persons appearing at an inquiry shall be at the traffic commissioner's discretion.

(4) Subject to sub-paragraph (5), any person present at an inquiry may submit any written evidence or other matter in writing before the close of the inquiry.

(5) Without prejudice to sub-paragraph (3), the traffic commissioner may refuse to permit—

- (a) the giving or calling of evidence;
- (b) cross examination of persons giving evidence; or
- (c) the presentation of any other matter,

which he considers to be irrelevant, repetitious, frivolous or vexatious.

(6) The traffic commissioner may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return.

(7) The traffic commissioner may proceed with an inquiry in the absence of any person entitled to appear, but if he was required to give such a person notice of the inquiry under paragraph 1 of this Schedule he shall not so proceed in the person's absence unless—

- (a) he is satisfied that such notice had been duly given; or
- (b) he decides to proceed with the inquiry under paragraph 7 of this Schedule on the basis that no injustice would be caused to the person as a result of such notice not having been duly given to him.

(8) The traffic commissioner shall not take into account any written evidence or other matter in writing received by him from any person before an inquiry opens or during any inquiry unless he discloses it at the inquiry.

(9) The traffic commissioner may from time to time adjourn an inquiry.

Giving of notices

6.—(1) A notice required or authorised to be sent to a person under this Schedule may be effected by—

- (a) delivering it to him at an address which is his proper address; or
- (b) sending it to him by post to an address which is his proper address; or
- (c) transmitting to him a facsimile copy of it by means of electronic signals.

(2) A notice sent under paragraph (1) shall, for the purposes of this Schedule, be deemed to have been sent when it would have been delivered in the ordinary course of post notwithstanding that—

- (a) the notice was returned as undelivered or was for any reason not received; or
- (b) was in fact delivered or received at some other time.

(3) Any such document may—

- (a) in the case of a body corporate, be sent to the secretary or clerk of that body;
- (b) in the case of a partnership, be sent to any partner;
- (c) in the case of an unincorporated association other than a partnership, be sent to any member of the governing body of the association.

(4) For the purposes of this paragraph and section 7 of the Interpretation Act 1978, the proper address of any person is his last known address (whether of his residence or a place where he carries on business or is employed) and also any address applicable in his case under the following provisions—

- (a) in the case of a body corporate, its secretary or its clerk, the address of its registered or principal office in the United Kingdom;
- (b) in the case of an unincorporated association (other than a partnership) or member of its governing body, its principal office in the United Kingdom.

(5) Where a person has in the licence-holder's application notified the traffic commissioner of an address, or, subsequently notified a new address under regulation 25, at which documents may be given to him for the purposes of correspondence that address shall also be his proper address for service for the purposes mentioned in sub-paragraph (3) or, as the case may be, his proper address for those purposes in substitution for that previously notified.

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

Irregularities in the giving of notices

7. Where a notice of the date, time and place fixed for the holding of an inquiry is not given in accordance with this Schedule, the traffic commissioner may nevertheless proceed with the inquiry as if notice had been duly given provided he is satisfied that no injustice or inconvenience would be caused.

Interpretation

8. In this Schedule “inquiry” means an inquiry held for the purposes of the Goods Vehicles (Licensing of Operators) Act 1995.