

**2000 No. 3226**

**TRANSPORT**

**The Transport Tribunal Rules 2000**

*Made* - - - - - *7th December 2000*

*Laid before Parliament* *8th December 2000*

*Coming into force* - - *1st January 2001*

The Lord Chancellor, in exercise of the powers conferred by paragraph 11(1) of Schedule 4 to the Transport Act 1985(a), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(b), hereby makes the following Rules:

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(a) 1985 c. 67. The Transfer of Functions (Transport Tribunal) Order 1989 (S.I. 1989/495) transferred the power to make rules governing the procedure and practice of the Transport Tribunal from the Secretary of State for Transport to the Lord Chancellor.

(b) 1992 c. 53.

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## **Citation, commencement and transitional provisions**

1. These Rules may be cited as the Transport Tribunal Rules 2000, and shall come into force on 1st January 2001.
2. These Rules shall not apply to proceedings in which an application or appeal is made before 1st January 2001 and those proceedings shall be subject to the Transport Tribunal Rules 1986(a) as if they had not been revoked.

## **PART I**

### *Interpretation*

3. In these Rules,
  - “the 1981 Act” means the Public Passenger Vehicles Act 1981(b);
  - “the 1985 Act” means the Transport Act 1985(c);
  - “the 1995 Act” means the Goods Vehicles (Licensing of Operators) Act 1995(d);
  - “the appropriate national authority” means the Secretary of State or, where his function under the provision giving rise to the right of appeal has, in relation to an appeal, been transferred to the Scottish Ministers or the National Assembly for Wales, the Scottish Ministers or the National Assembly for Wales as appropriate;
  - “judicial member” means the President or a chairman of the Tribunal appointed in accordance with Schedule 4 to the 1985 Act;
  - “party” in Part III of these Rules, shall be construed in accordance with rule 14;
  - “President” means the person appointed as President in accordance with Schedule 4 to the 1985 Act;
  - “representor”, in Part III of these Rules, means a person who made representations under section 12(4) or 19(2) of the 1995 Act against the application for, or for the variation of, the operator’s licence in question;
  - “secretary”, in relation to a rule, means an officer or employee of the Tribunal designated by the President to perform the duties required under the rule;
  - “traffic commissioner” means a traffic commissioner within the meaning of the 1981 Act;
  - “the Tribunal” means the Transport Tribunal as reconstituted in accordance with the 1985 Act or any member of it acting alone in accordance with rule 20.

## **PART II**

### *Applications for a stay*

#### **Application of Part II**

- 4.—(1) Rules 5 to 10 apply to an application to the Tribunal for a stay under section 50(8) of the 1981 Act or section 29(3) of the 1995 Act.
- (2) Except for rules 29 and 35, Rules 20 to 38 apply to applications to the Tribunal under this Part of these Rules.
- (3) In this Part of these Rules, a stay means a direction under section 50(6) of the 1981 Act or section 29(2) of the 1995 Act.

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(a) S.I. 1986/1547.

(b) 1981 c. 14, as amended by the Transport Act 1985 (c. 67).

(c) 1985 c. 67, as amended by the Courts and Legal Services Act 1990 (c. 41), the Judicial Pensions and Retirement Act 1993 (c. 8) and the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23).

(d) 1995 c. 23.

### **Method of applying**

5.—(1) An application to which this Part applies shall be made by serving a notice in writing on the Tribunal.

(2) At the same time as he serves notice on the Tribunal, the applicant shall serve a copy of the notice on the traffic commissioner.

### **Contents of notice**

6. The applicant's notice shall be signed and dated by or on behalf of the applicant and shall state:

- (a) the name and the address for the service of the applicant;
- (b) the name and address of the traffic commissioner;
- (c) details of the decision refusing or withdrawing a stay in respect of which the application is made; and
- (d) the grounds for the application.

### **Action on receipt of application**

7. The secretary shall acknowledge receipt of any notice served under rule 5(1).

### **Traffic commissioner's statement of reasons**

8.—(1) Within 7 days of receipt of the applicant's notice, the traffic commissioner shall send to the Tribunal a written statement of his reasons for refusing or withdrawing a stay.

(2) At the same time as he sends the statement of reasons to the Tribunal, the traffic commissioner shall send a copy of it to the applicant, unless he has previously done so.

### **Appearance before the Tribunal**

9. The Tribunal may, if it thinks fit, give the applicant an opportunity of being heard.

### **Decision of the Tribunal**

10.—(1) The Tribunal shall give its decision within 14 days of receipt of the application.

(2) The decision shall be given in writing signed and dated by the judicial member and shall contain a summary of its reasons.

(3) A copy of the decision shall be sent to the applicant and the traffic commissioner.

## **PART III**

### *Road Transport Appeals*

#### **Application of Part III**

11.—(1) Rules 12 to 15 apply to appeals to the Tribunal under:

- (a) section 50 of the 1981 Act;
- (b) section 111 of the 1985 Act<sup>(a)</sup>;
- (c) section 37 of the 1995 Act;
- (d) the Goods Vehicles (Community Authorisations) Regulations 1992, regulation 6<sup>(b)</sup>;
- (e) the Public Service Vehicles (Community Licenses) Regulations 1999, regulation 6<sup>(c)</sup>; and

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<sup>(a)</sup> The functions of the Secretary of State under section 111 of the Transport Act 1985 were transferred, in relation to Scotland to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46), and in relation to Wales to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253).

<sup>(b)</sup> S.I. 1992/3077.

<sup>(c)</sup> S.I. 1999/1322.

(f) the Road Transport (Passenger Vehicles Cabotage) Regulations 1999, regulation 6(a).

(2) Rules 20 to 38 apply to appeals to the Tribunal under this Part of these Rules.

### **Method of appealing**

**12.—**(1) An appeal to which this Part applies shall be made by serving a notice in writing on the Tribunal.

(2) The notice of appeal shall be signed and dated by or on behalf of the appellant and shall state:

- (a) the name and address for service of the appellant;
- (b) the name and address of the traffic commissioner;
- (c) details of the decision against which the appeal is brought; and
- (d) the grounds for the appeal.

(3) The notice of appeal shall be received by the Tribunal not later than 28 days after the date of notification in writing to the appellant of the matter giving rise to the appeal.

(4) Where the appellant fails to serve the notice of appeal within the 28 day time limit in paragraph 3, such notice shall include:

- (a) a request to the Tribunal to extend the time limit in accordance with rule 24; and
- (b) details of the reasons for the delay.

### **Action on receipt of appeal**

**13.—**(1) The secretary shall acknowledge receipt of any notice served under rule 12(1) and, upon receipt of the details to be provided under rule 15(1)(d), shall serve a copy on:

- (a) the traffic commissioner;
- (b) the appropriate national authority;
- (c) in the case of an appeal by an applicant for, or for the variation of, an operator's licence, every person who made an objection to the application;
- (d) in the case of an appeal by a person who made an objection to an application for, or (in the case of a goods vehicles operator's licence) for the variation of, an operator's licence, the applicant and every other person who made an objection to the application; and
- (e) in the case of an appeal under section 37(5) of the 1995 Act, every representor.

(2) The appropriate national authority, an objector and the applicant may, within 14 days of the date of a notice served in accordance with paragraph (1)(b), (c) or (d), reply in writing to the Tribunal that he wishes to become a party to the appeal, whereupon he shall become a party, and every copy notice served in accordance with paragraph (1)(b), (c) or (d) shall be endorsed with a statement to that effect.

(3) A representor may, within 14 days of a notice served in accordance with paragraph (1)(e), apply in writing to the Tribunal for permission to become a party to the appeal and every copy notice served in accordance with paragraph (1)(e) shall be endorsed with a statement to that effect.

(4) The secretary shall inform the relevant representor of the decision of the Tribunal on any application made under paragraph (3).

(5) The secretary shall serve on every other party a copy of:

- (a) any reply served under paragraph (2); and
- (b) any application made under paragraph (3), and the decision of the Tribunal on the application.

### **Parties to an appeal**

**14.—**(1) The Tribunal may at any stage of an appeal order any person (other than the traffic commissioner) to be added as a party to the appeal.

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(a) S.I. 1999/3413.

- (2) The parties to an appeal are:
  - (a) the appellant;
  - (b) every person who is entitled by rule 13(1)(b), (c) or (d) to receive a copy of the notice of appeal and who replies that he wishes to become a party in accordance with rule 13(2);
  - (c) every representor who is given permission by the Tribunal to become a party to the appeal; and
  - (d) every person who is added as a party by order of the Tribunal pursuant to this rule.

#### **Supply of information and documents**

**15.**—(1) Upon receipt of a copy of a notice of appeal the traffic commissioner shall send to the Tribunal a copy of:

- (a) the decision appealed against, whether given in writing by the traffic commissioner or transcribed, including reasons;
- (b) all documents produced to the traffic commissioner in connection with the decision appealed against;
- (c) if a public inquiry was held, the transcript of the inquiry or, if no such transcript was produced, the traffic commissioner's note of the inquiry; and
- (d) in the case of an appeal under section 50 of the 1981 Act or section 37 of the 1995 Act, a list of the names and addresses of objectors and representors.

(2) A party may request the secretary to send him specified documents received from the traffic commissioner in accordance with paragraph (1), and the secretary shall comply with such request unless the Tribunal considers it unreasonable, in which case the Tribunal shall give details of why it considers the request to be unreasonable.

(3) The traffic commissioner shall, upon request, send to the Tribunal further copies of any of the documents mentioned in paragraph (1).

## **PART IV**

### *Disputes under the Postal Services Act 2000(a)*

#### **Application of Part IV**

**16.**—(1) Rules 17 and 18 apply to any dispute to be determined by the Tribunal under section 94 of the Postal Services Act 2000.

(2) Rules 20 to 38 apply to applications to the Tribunal under this Part of these Rules.

#### **Commencement of proceedings**

**17.**—(1) An application to which this Part applies shall be made by serving a notice in writing on the Tribunal.

(2) The applicant's notice shall be signed and dated by or on behalf of the applicant and shall state:

- (a) the name and address for service of the applicant;
- (b) the subject matter of the dispute;
- (c) the grounds for the application; and
- (d) the name and address of each other person who is a party to the dispute.

(3) The secretary shall acknowledge receipt of any notice served under paragraph (1) and shall serve on each person named under paragraph (2)(d), a copy of the notice with a direction that:

- (a) any answer to the notice should be served on the Tribunal within 14 days of the service of the notice on the party; and
- (b) in default of any answer, the party will not be heard at any hearing except with the permission of the Tribunal.

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(a) 2000 c. 26.

## **Answer**

- 18.**—(1) Within 14 days from service of a notice in accordance with rule 17(3), the relevant party shall serve on the Tribunal an answer:
- (a) stating which facts are admitted and which are rejected; and
  - (b) setting out any further facts on which he proposes to rely.
- (2) The secretary shall serve a copy of the answer on the applicant and on each other party.

## **PART V**

### *General*

#### **Application of Part V**

- 19.** Rules 20 to 38 apply to all cases before the Tribunal under these Rules, except that rules 29 and 35 do not apply to applications under Part II (applications for a stay).

#### **Constitution**

- 20.**—(1) Subject to paragraph (2), any act required or authorised by these Rules to be done by the Tribunal may be done by a judicial member sitting alone except the hearing of an appeal under Part III, which must be heard by three Tribunal members, including one judicial member.
- (2) If every party consents, the Tribunal may hear an appeal under Part III in the absence of any one member, other than the judicial member, and, if so, the judicial member shall have the decisive vote.

#### **Service of notices and documents**

- 21.**—(1) Any notice, statement or other document required by these Rules to be served on, supplied or sent to the Tribunal, may be:
- (a) delivered;
  - (b) sent by post; or
  - (c) sent in such other manner as the Tribunal may accept.
- (2) Any statement or other document required by these Rules to be supplied or sent otherwise than to the Tribunal, may be:
- (a) delivered; or
  - (b) sent by post to the address for service if applicable, or to the residence, place of business or registered office of the addressee.

#### **Replies and statements**

- 22.**—(1) Any party may submit a written reply or statement of his case to the Tribunal.
- (2) The Tribunal may by notice in writing require any party to supply such written reply or other statement as it considers necessary, and the secretary shall serve a copy of any such reply or statement on each other party.

#### **Amendment**

- 23.**—(1) The Tribunal may at any stage of the proceedings allow any notice, statement or reply to be amended upon such terms as it considers just.
- (2) The Tribunal may direct the secretary to send copies of such amended documents to:
- (a) the parties; and
  - (b) in the case of appeals under Part III of these Rules, the traffic commissioner and the appropriate national authority.

### **Extension of time**

**24.** The Tribunal may extend any time specified by these Rules upon such terms as it thinks fit, if it considers that the justice of the case requires it.

### **Disclosure of documents**

**25.—(1)** The traffic commissioner and any party shall comply with any request in writing by the Tribunal to deliver to it any document within their power or control.

(2) The secretary may supply copies of any documents obtained under paragraph (1) to the parties and any such copy document shall be used only for the purposes of the case.

### **Preliminary issues**

**26.—(1)** The Tribunal may order any point which appears to be in issue in a case before it to be determined as a preliminary issue.

(2) If, in the opinion of the Tribunal, the determination of that point substantially disposes of the whole case, subject to rule 20 the Tribunal may treat the hearing of the preliminary issue as the hearing of the case and may make such order by way of disposing of the case as it thinks fit.

### **Consolidation**

**27.—(1)** The Tribunal may order two or more cases to be consolidated or heard together where it considers that:

- (a) a common question of law or fact arises in both or all of them; or
- (b) for some other reason it is desirable for them to be consolidated or heard together.

(2) Before the Tribunal makes an order under paragraph (1), it shall give the parties to all the proceedings in question an opportunity to make representations.

### **Withdrawal of proceedings**

**28.—(1)** Any applicant or appellant may withdraw his case by the service on the Tribunal of written notice to that effect.

(2) The secretary shall send a copy of a notice served under paragraph (1) to every other party to the proceedings and, other than in the case of disputes to which Part IV of these Rules applies, to the traffic commissioner and the appropriate national authority.

### **Arrangements for hearings**

**29.—(1)** The Tribunal may determine a case before it without an oral hearing if all the parties so agree in writing.

(2) The Tribunal shall set a date, time and place for a hearing but, in cases to which rules 13(2) or (3) or rule 18 apply, it shall not do so until time has expired under those provisions.

(3) The secretary shall send to:

- (a) the parties; and
- (b) in the case of appeals under Part III of these Rules, the traffic commissioner and the appropriate national authority

notice of the date, time and place fixed for the hearing.

(4) Every notice sent under paragraph (3) shall contain a statement of the effect of rule 34.

(5) The Tribunal may:

- (a) postpone the date or time of a hearing;
- (b) adjourn a hearing to such date or time as it may determine; or
- (c) alter the place of any hearing;

and, if any of the above take place, the secretary shall notify those persons notified under paragraph (3), of the revised arrangements.



### **Conduct of proceedings at hearings**

- 30.—(1) The Tribunal may issue directions as to the conduct of hearings.
- (2) The Tribunal may adopt any method of proceeding at a hearing that it considers to be fair.
- (3) Hearings will be informal.
- (4) Every party to a case may appear at the hearing of it.

### **Representation at hearings**

31. At any hearing, a party may conduct his case himself or may be represented by counsel, a solicitor, or, with the permission of the Tribunal, any other person whom he appoints for that purpose.

### **Limitation to grounds relied upon and evidence given**

32.—(1) Subject to paragraph (2), a party shall be entitled to rely at any hearing only on those grounds stated in his notice of appeal (if he is the appellant), or in his written reply or statement under rule 22 (if he is any other party), and may give only such evidence as was given before the traffic commissioner.

(2) Subject to paragraph 9(2) of Schedule 4 to the 1985 Act (tribunal not to consider new circumstances), the Tribunal may allow:

- (a) additional grounds to be put forward; and
- (b) evidence not given before the traffic commissioner to be admitted

and if so, details or copies of the same, as appropriate, shall be sent by the Tribunal to all parties prior to the hearing.

### **Hearings in public**

33.—(1) Subject to the following paragraphs of this rule, all hearings by the Tribunal shall be in public unless it considers that there are exceptional reasons which make it desirable that a hearing, or any part of a hearing, should be in private.

(2) Where any question relating to the financial standing of any person is to be considered during a hearing, the Tribunal may, if that person so requests, exclude the public from the part of the hearing during which that question is considered.

(3) A member of the Council on Tribunals or of the Scottish Committee of the Council may be present in that capacity at any hearing by the Tribunal notwithstanding that the hearing, or part of the hearing, is not in public, and may remain present during the deliberations of the Tribunal but shall take no part in those deliberations.

### **Failure to attend**

34. If any party fails to appear at a hearing, the Tribunal may, subject to rule 38, hear and determine the case in the party's absence and, if the party is the applicant or appellant and the hearing is the final hearing of the case, it may dismiss the case.

### **Decision of the Tribunal**

- 35.—(1) At the conclusion of any hearing the Tribunal may announce its decision orally.
- (2) A decision of the Tribunal which finally determines an appeal under Part III or a dispute under Part IV of these Rules shall be recorded in an order.
- (3) The Tribunal shall send a copy of the order referred to in paragraph (2), and a summary of the facts and reasons on which the decision is based, signed and dated by the judicial member, to each party and, other than in disputes to which Part IV of these Rules applies, to the traffic commissioner and the appropriate national authority.
- (4) A decision of the Tribunal to which paragraph (2) does not apply may be recorded in an order and may be given as set out in paragraph (3).

(5) Except where the Tribunal provides for the decision to have effect on a specified date, the decision shall have effect on the date of the order or, if no order was made, on the date when it was notified to the applicant or appellant.

### **Records**

**36.**—(1) Subject to paragraph (2), all orders of the Tribunal and any summary referred to in rule 35(3) may be inspected by any person at the office of the Tribunal, or by such other method as the Tribunal may allow.

(2) Paragraph (1) does not apply to the summary of any hearing or part of a hearing from which the public is excluded by virtue of rule 33(1) or (2).

### **Irregularities**

**37.**—(1) Any irregularity resulting from failure to comply with any provision of these Rules before the Tribunal has reached its decision shall not of itself render the proceedings void.

(2) In any such case the Tribunal shall, if it considers that any person may have been prejudiced, take such steps as it thinks fit to cure the irregularity before reaching its decision.

(3) Clerical mistakes in any document recording a decision of the Tribunal, or errors arising in such a document from an accidental slip or omission, may be corrected by a judicial member.

### **Review of decisions**

**38.**—(1) This rule applies where a party fails to appear at a hearing.

(2) The party may apply to the Tribunal for a review within 7 days of a copy of the order being sent to him.

(3) The Tribunal may revoke the decision and set a date for a new hearing if it is satisfied that the party had good reason for not appearing.

(4) Notice of the decision sent to an absent party under rule 35(3) shall include notification of his right to apply to the Tribunal for a review of the decision.

## **PART VI**

### *Costs*

**39.**—(1) Subject to paragraph (2), in any proceedings before the Tribunal, including proceedings withdrawn in accordance with rule 28, the Tribunal may make an order awarding costs against one or more party or parties (“the paying party”) and in favour of such other party or parties as may be specified in the order.

(2) An order under paragraph (1) may only be made if the Tribunal considers that the conduct of the paying party in making, pursuing or resisting an appeal or application has been frivolous, vexatious, improper or unreasonable.

(3) Before the Tribunal makes an order under paragraph (1), it shall give the paying party an opportunity to make representations.

(4) An order under paragraph (1) may require the paying party to pay to such other party or parties as may be specified in the order:

- (a) a specified sum in respect of the costs incurred by such other party or parties in connection with the proceedings; or
- (b) the whole or a part specified in the order of those costs as assessed (if not otherwise agreed).

(5) Any costs required by an order under this rule to be assessed shall be subject to detailed assessment proceedings as ordered by the Tribunal.

## PART VII

### *Revocation*

40. The Transport Tribunal Rules 1986<sup>(a)</sup> are revoked.

Signed by the authority of the Lord Chancellor

7th December 2000

*Jane Kennedy*  
Parliamentary Secretary,  
Lord Chancellor's Department

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<sup>(a)</sup> S.I. 1986/1547.

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

Part I of these Rules (rule 3) deals with interpretation.

Part II (rules 4 to 10) applies to applications to the Transport Tribunal under section 50(8) of the Public Passenger Vehicles Act 1981 and section 29(3) of the Goods Vehicles (Licensing of Operators) Act 1995.

Part III (rules 11 to 15) applies to appeals to the Tribunal under section 50 of the Public Passenger Vehicles Act 1981, section 111 of the Transport Act 1985 and section 37 of the Goods Vehicles (Licensing of Operators) Act 1995.

Part IV (rules 16 to 18) applies to applications under section 94 of the Postal Services Act 2000.

Part V (rules 19 to 38) contains provisions of general application.

Part VI (rule 39) deals with costs.

Part VII (rule 40) provides that the Transport Tribunal Rules 1986 are revoked.

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